

**Introduced by Senator Perata**

February 22, 2007

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An act to amend Sections 101, 205, 1601.1, 1616.5, 1621, 1670.1, 1680, 1721, 1721.5, 1725, 1741, 1742, 1742.1, 1743, 1744, 1770, 1771, 4999.2, and 4999.7 of, to add Article 9 (commencing with Section 1900) to Chapter 4 of Division 2 of, and to repeal Sections 1760, 1760.5, 1761, 1762, 1763, 1764, 1765, 1766, 1768, 1769, 1772, 1774, and 1775 of, the Business and Professions Code, to amend Section 44876 of the Education Code, and to amend Sections 1348.8 and 128160 of the Health and Safety Code, relating to healing arts.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 534, as introduced, Perata. Dentistry: dental hygienists.

(1) Existing law provides for the licensure and regulation of the practice of dentistry by the Dental Board of California, and authorizes the board to appoint an executive officer. Existing law also establishes the Committee on Dental Auxiliaries within the jurisdiction of the board. The provisions establishing the board and authorizing the board to appoint an executive officer, are inoperative as of July 1, 2008, and are repealed as of January 1, 2009. The provisions establishing the committee are inoperative as of July 1, 2009, and are repealed as of January 1, 2010.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeal them on January 1, 2011.

(2) Existing law, the Dental Practice Act, provides for the licensure and regulation of dental auxiliaries. Under that act, dental auxiliaries are defined as including, among others, dental assistants, registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice. The act makes

the Committee on Dental Auxiliaries, which has a specified membership that includes 3 registered dental hygienist members, responsible for licensing those who practice as a dental auxiliary and makes the Dental Board of California responsible for all disciplinary actions against a dental auxiliary and for approving all of their continuing education requirements. Under the act, fees collected in connection with the practice of a dental auxiliary are deposited into the State Dental Auxiliary Fund, in the Professions and Vocations Fund.

This bill would rename the Committee on Dental Auxiliaries the Committee on Dental Assistants, and would revise the membership of the committee to remove the 3 registered dental hygienist members. The bill would also create the California Dental Hygiene Bureau in the Department of Consumer Affairs, and would create the Dental Hygiene Advisory Bureau in the bureau, to assist the bureau as specified. The bill would establish specific criteria for licensure by the bureau of a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended practice. The bill would set forth the bureau's functions and duties, including issuing, reviewing, and revoking licenses, developing and administering examinations, determining fees and education programs and continuing education requirements for a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions, and adopting regulations.

This bill would create the State Dental Hygiene Fund in the Professions and Vocations Fund and would require that fees paid by licensees and certain fines be deposited into the fund. The bill would require a transfer of a specified amount into the fund from the State Dental Auxiliary Fund, which would be renamed the State Dental Assistant Fund.

This bill would specify acts that would constitute unprofessional conduct, and would also specify acts that would constitute crimes. The bill would require the bureau to establish a diversion program for licensees whose competency may be impaired due to drug or alcohol abuse and to establish diversion evaluation committees, with specified duties in that regard.

Because a violation of certain provisions of the bill would be a crime, the bill would create a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 101 of the Business and Professions Code  
2 is amended to read:  
3     101. The department is comprised of:  
4     (a) The Dental Board of California.  
5     (b) The Medical Board of California.  
6     (c) The State Board of Optometry.  
7     (d) The California State Board of Pharmacy.  
8     (e) The Veterinary Medical Board.  
9     (f) The California Board of Accountancy.  
10    (g) The California Architects Board.  
11    (h) The Bureau of Barbering and Cosmetology.  
12    (i) The Board for Professional Engineers and Land Surveyors.  
13    (j) The Contractors' State License Board.  
14    (k) The Bureau for Private Postsecondary and Vocational  
15 Education.  
16    (l) The Structural Pest Control Board.  
17    (m) The Bureau of Home Furnishings and Thermal Insulation.  
18    (n) The Board of Registered Nursing.  
19    (o) The Board of Behavioral Sciences.  
20    (p) The State Athletic Commission.  
21    (q) The Cemetery and Funeral Bureau.  
22    (r) The State Board of Guide Dogs for the Blind.  
23    (s) The Bureau of Security and Investigative Services.  
24    (t) The Court Reporters Board of California.  
25    (u) The Board of Vocational Nursing and Psychiatric  
26 Technicians.  
27    (v) The Landscape Architects Technical Committee.  
28    (w) The Bureau of Electronic and Appliance Repair.  
29    (x) The Division of Investigation.  
30    (y) The Bureau of Automotive Repair.  
31    (z) The State Board of Registration for Geologists and  
32 Geophysicists.  
33    (aa) The Respiratory Care Board of California.

- 1 (ab) The Acupuncture Board.
- 2 (ac) The Board of Psychology.
- 3 (ad) The California Board of Podiatric Medicine.
- 4 (ae) The Physical Therapy Board of California.
- 5 (af) The Arbitration Review Program.
- 6 (ag) The Committee on Dental ~~Auxiliaries~~ *Assistants*.
- 7 (ah) The Hearing Aid Dispensers Bureau.
- 8 (ai) The Physician Assistant Committee.
- 9 (aj) The Speech-Language Pathology and Audiology Board.
- 10 (ak) The California Board of Occupational Therapy.
- 11 (al) The Osteopathic Medical Board of California.
- 12 (am) The Bureau of Naturopathic Medicine.
- 13 *(an) The California Dental Hygiene Bureau.*
- 14 ~~(an) Any~~
- 15 *(ao) Any* other boards, offices, or officers subject to its
- 16 jurisdiction by law.
- 17 SEC. 2. Section 205 of the Business and Professions Code is
- 18 amended to read:
- 19 205. (a) There is in the State Treasury the Professions and
- 20 Vocations Fund. The fund shall consist of the following special
- 21 funds:
- 22 (1) Accountancy Fund.
- 23 (2) California Board of Architectural Examiners' Fund.
- 24 (3) Athletic Commission Fund.
- 25 (4) Barbering and Cosmetology Contingent Fund.
- 26 (5) Cemetery Fund.
- 27 (6) Contractors' License Fund.
- 28 (7) State Dentistry Fund.
- 29 (8) State Funeral Directors and Embalmers Fund.
- 30 (9) Guide Dogs for the Blind Fund.
- 31 (10) Bureau of Home Furnishings and Thermal Insulation Fund.
- 32 (11) California Board of Architectural Examiners-Landscape
- 33 Architects Fund.
- 34 (12) Contingent Fund of the Medical Board of California.
- 35 (13) Optometry Fund.
- 36 (14) Pharmacy Board Contingent Fund.
- 37 (15) Physical Therapy Fund.
- 38 (16) Private Investigator Fund.
- 39 (17) Professional Engineers' and Land Surveyors' Fund.
- 40 (18) Consumer Affairs Fund.

- 1 (19) Behavioral Sciences Fund.
- 2 (20) Licensed Midwifery Fund.
- 3 (21) Court Reporters' Fund.
- 4 (22) Structural Pest Control Fund.
- 5 (23) Veterinary Medical Board Contingent Fund.
- 6 (24) Vocational Nurses Account of the Vocational Nursing and
- 7 Psychiatric Technicians Fund.
- 8 (25) State Dental ~~Auxiliary~~ *Assistant* Fund.
- 9 (26) Electronic and Appliance Repair Fund.
- 10 (27) Geology and Geophysics Fund.
- 11 (28) Dispensing Opticians Fund.
- 12 (29) Acupuncture Fund.
- 13 (30) Hearing Aid Dispensers Fund.
- 14 (31) Physician Assistant Fund.
- 15 (32) Board of Podiatric Medicine Fund.
- 16 (33) Psychology Fund.
- 17 (34) Respiratory Care Fund.
- 18 (35) Speech-Language Pathology and Audiology Fund.
- 19 (36) Board of Registered Nursing Fund.
- 20 (37) Psychiatric Technician Examiners Account of the
- 21 Vocational Nursing and Psychiatric Technicians Fund.
- 22 (38) Animal Health Technician Examining Committee Fund.
- 23 (39) Structural Pest Control Education and Enforcement Fund.
- 24 (40) Structural Pest Control Research Fund.
- 25 (41) *State Dental Hygiene Fund.*

26 (b) For accounting and recordkeeping purposes, the Professions  
27 and Vocations Fund shall be deemed to be a single special fund,  
28 and each of the several special funds therein shall constitute and  
29 be deemed to be a separate account in the Professions and  
30 Vocations Fund. Each account or fund shall be available for  
31 expenditure only for the purposes as are now or may hereafter be  
32 provided by law.

33 SEC. 3. Section 1601.1 of the Business and Professions Code  
34 is amended to read:

35 1601.1. (a) There shall be in the Department of Consumer  
36 Affairs the Dental Board of California in which the administration  
37 of this chapter is vested. The board shall consist of eight practicing  
38 dentists, one registered dental hygienist, one registered dental  
39 assistant, and four public members. Of the eight practicing dentists,  
40 one shall be a member of a faculty of any California dental college

1 and one shall be a dentist practicing in a nonprofit community  
2 clinic. The appointing powers, described in Section 1603, may  
3 appoint to the board a person who was a member of the prior board.  
4 The board shall be organized into standing committees dealing  
5 with examinations, enforcement, and other subjects as the board  
6 deems appropriate.

7 (b) For purposes of this chapter, any reference in this chapter  
8 to the Board of Dental Examiners shall be deemed to refer to the  
9 Dental Board of California.

10 (c) The board shall have all authority previously vested in the  
11 existing board under this chapter. The board may enforce all  
12 disciplinary actions undertaken by the previous board.

13 (d) This section shall become inoperative on July 1, ~~2008~~ 2010,  
14 and, as of January 1, ~~2009~~ 2011, is repealed, unless a later enacted  
15 statute that is enacted before January 1, ~~2009~~ 2011, deletes or  
16 extends the dates on which it becomes inoperative and is repealed.  
17 The repeal of this section renders the board subject to the review  
18 required by Division 1.2 (commencing with Section 473).

19 SEC. 4. Section 1616.5 of the Business and Professions Code  
20 is amended to read:

21 1616.5. (a) The board, by and with the approval of the director,  
22 may appoint a person exempt from civil service who shall be  
23 designated as an executive officer and who shall exercise the  
24 powers and perform the duties delegated by the board and vested  
25 in him or her by this chapter.

26 (b) This section shall become inoperative on July 1, ~~2008~~ 2010,  
27 and, as of January 1, ~~2009~~ 2011, is repealed, unless a later enacted  
28 statute that is enacted before January 1, ~~2009~~ 2011, deletes or  
29 extends the dates on which it becomes inoperative and is repealed.

30 SEC. 5. Section 1621 of the Business and Professions Code is  
31 amended to read:

32 1621. The board shall utilize in the administration of its  
33 licensure examinations only examiners whom it has appointed and  
34 who meet the following criteria:

35 (a) Possession of a valid license to practice dentistry in this state  
36 or possession of a valid license in one of the following dental  
37 auxiliary categories: registered dental assistant, registered dental  
38 assistant in extended functions, registered dental hygienist,  
39 registered dental hygienist in extended functions, or registered  
40 dental hygienist in alternative practice.

1 (b) Practice as a licensed dentist or in a ~~dental auxiliary~~ licensure  
2 category *described in subdivision (a)* for at least five years  
3 preceding his or her appointment.

4 (c) Hold no position as an officer or faculty member at any  
5 college, school, or institution that provides dental instruction in  
6 the same licensure category as that held by the examiner.

7 SEC. 6. Section 1670.1 of the Business and Professions Code  
8 is amended to read:

9 1670.1. (a) Any licentiate under this chapter may have his or  
10 her license revoked or suspended or be reprimanded or be placed  
11 on probation by the board for conviction of a crime substantially  
12 related to the qualifications, functions, or duties of a dentist ~~or,~~  
13 dental auxiliary, *or registered dental hygienist*, in which case the  
14 record of conviction or a certified copy thereof, certified by the  
15 clerk of the court or by the judge in whose court the conviction is  
16 had, shall be conclusive evidence.

17 ~~The~~  
18 (b) *The* board shall undertake proceedings under this section  
19 upon the receipt of a certified copy of the record of conviction. A  
20 plea or verdict of guilty or a conviction following a plea of nolo  
21 contendere made to a charge of a felony or of any misdemeanor  
22 substantially related to the qualifications, functions, or duties of a  
23 dentist ~~or,~~ dental auxiliary, *or registered dental hygienist* is deemed  
24 to be a conviction within the meaning of this section. The board  
25 may order the license suspended or revoked, or may decline to  
26 issue a license, when the time for appeal has elapsed, or the  
27 judgment of conviction has been affirmed on appeal or when an  
28 order granting probation is made suspending the imposition of  
29 sentence, irrespective of a subsequent order under any provision  
30 of the Penal Code, including, but not limited to, Section 1203.4  
31 of the Penal Code, allowing ~~such~~ *the* person to withdraw his or  
32 her plea of guilty and to enter a plea of not guilty, or setting aside  
33 the verdict of guilty, or dismissing the accusation, information or  
34 indictment.

35 SEC. 7. Section 1680 of the Business and Professions Code is  
36 amended to read:

37 1680. Unprofessional conduct by a person licensed under this  
38 chapter is defined as, but is not limited to, any one of the following:

39 (a) The obtaining of any fee by fraud or misrepresentation.

1 (b) The employment directly or indirectly of any student or  
2 suspended or unlicensed dentist to practice dentistry as defined in  
3 this chapter.

4 (c) The aiding or abetting of any unlicensed person to practice  
5 dentistry.

6 (d) The aiding or abetting of a licensed person to practice  
7 dentistry unlawfully.

8 (e) The committing of any act or acts of sexual abuse,  
9 misconduct, or relations with a patient that are substantially related  
10 to the practice of dentistry.

11 (f) The use of any false, assumed, or fictitious name, either as  
12 an individual, firm, corporation, or otherwise, or any name other  
13 than the name under which he or she is licensed to practice, in  
14 advertising or in any other manner indicating that he or she is  
15 practicing or will practice dentistry, except that name as is specified  
16 in a valid permit issued pursuant to Section 1701.5.

17 (g) The practice of accepting or receiving any commission or  
18 the rebating in any form or manner of fees for professional services,  
19 radiograms, prescriptions, or other services or articles supplied to  
20 patients.

21 (h) The making use by the licensee or any agent of the licensee  
22 of any advertising statements of a character tending to deceive or  
23 mislead the public.

24 (i) The advertising of either professional superiority or the  
25 advertising of performance of professional services in a superior  
26 manner. This subdivision shall not prohibit advertising permitted  
27 by subdivision (h) of Section 651.

28 (j) The employing or the making use of solicitors.

29 (k) The advertising in violation of Section 651.

30 (l) The advertising to guarantee any dental service, or to perform  
31 any dental operation painlessly. This subdivision shall not prohibit  
32 advertising permitted by Section 651.

33 (m) The violation of any of the provisions of law regulating the  
34 procurement, dispensing, or administration of dangerous drugs,  
35 as defined in ~~Article 7 Chapter 9~~ (commencing with Section 4211)  
36 ~~of Chapter 9 4000~~, or controlled substances, as defined in Division  
37 10 (commencing with Section 11000) of the Health and Safety  
38 Code.

39 (n) The violation of any of the provisions of this division.



1 (o) The permitting of any person to operate dental radiographic  
2 equipment who has not met the requirements of Section 1656.

3 (p) The clearly excessive prescribing or administering of drugs  
4 or treatment, or the clearly excessive use of diagnostic procedures,  
5 or the clearly excessive use of diagnostic or treatment facilities,  
6 as determined by the customary practice and standards of the dental  
7 profession.

8 Any person who violates this subdivision is guilty of a  
9 misdemeanor and shall be punished by a fine of not less than one  
10 hundred dollars (\$100) or more than six hundred dollars (\$600),  
11 or by imprisonment for a term of not less than 60 days or more  
12 than 180 days, or by both a fine and imprisonment.

13 (q) The use of threats or harassment against any patient or  
14 licensee for providing evidence in any possible or actual  
15 disciplinary action, or other legal action; or the discharge of an  
16 employee primarily based on the employee's attempt to comply  
17 with the provisions of this chapter or to aid in the compliance.

18 (r) Suspension or revocation of a license issued, or discipline  
19 imposed, by another state or territory on grounds which would be  
20 the basis of discipline in this state.

21 (s) The alteration of a patient's record with intent to deceive.

22 (t) Unsanitary or unsafe office conditions, as determined by the  
23 customary practice and standards of the dental profession.

24 (u) The abandonment of the patient by the licensee, without  
25 written notice to the patient that treatment is to be discontinued  
26 and before the patient has ample opportunity to secure the services  
27 of another dentist *or registered dental hygienist* and provided the  
28 health of the patient is not jeopardized.

29 (v) The willful misrepresentation of facts relating to a  
30 disciplinary action to the patients of a disciplined licensee.

31 (w) Use of fraud in the procurement of any license issued  
32 pursuant to this chapter.

33 (x) Any action or conduct ~~which~~ *that* would have warranted the  
34 denial of the license.

35 (y) The aiding or abetting of a licensed dentist ~~or~~, dental  
36 auxiliary, *or registered dental hygienist* to practice dentistry in a  
37 negligent or incompetent manner.

38 (z) The failure to report to the board in writing within seven  
39 days any of the following: (1) the death of his or her patient during  
40 the performance of any dental *or dental hygiene* procedure; (2)

1 the discovery of the death of a patient whose death is related to a  
2 dental *or dental hygiene* procedure performed by him or her; or  
3 (3) except for a scheduled hospitalization, the removal to a hospital  
4 or emergency center for medical treatment for a period exceeding  
5 24 hours of any patient to whom oral conscious sedation, conscious  
6 sedation, or general anesthesia was administered, or any patient  
7 as a result of dental *or dental hygiene* treatment. With the exception  
8 of patients to whom oral conscious sedation, conscious sedation,  
9 or general anesthesia was administered, removal to a hospital or  
10 emergency center that is the normal or expected treatment for the  
11 underlying dental condition is not required to be reported. Upon  
12 receipt of a report pursuant to this subdivision the board may  
13 conduct an inspection of the dental office if the board finds that it  
14 is necessary.

15 (aa) Participating in or operating any group advertising and  
16 referral services that are in violation of Section 650.2.

17 (bb) The failure to use a fail-safe machine with an appropriate  
18 exhaust system in the administration of nitrous oxide. The board  
19 shall, by regulation, define what constitutes a fail-safe machine.

20 (cc) Engaging in the practice of dentistry *or dental hygiene* with  
21 an expired license.

22 (dd) Except for good cause, the knowing failure to protect  
23 patients by failing to follow infection control guidelines of the  
24 board, thereby risking transmission of blood-borne infectious  
25 diseases from dentist~~or~~, dental auxiliary, *or registered dental*  
26 *hygienist* to patient, from patient to patient, and from patient to  
27 dentist~~or~~, dental auxiliary, *or registered dental hygienist*. In  
28 administering this subdivision, the board shall consider referencing  
29 the standards, regulations, and guidelines of the State Department  
30 of Health Services developed pursuant to Section 1250.11 of the  
31 Health and Safety Code and the standards, guidelines, and  
32 regulations pursuant to the California Occupational Safety and  
33 Health Act of 1973 (Part 1 (commencing with Section 6300); *of*  
34 *Division 5; of the Labor Code*) for preventing the transmission of  
35 HIV, hepatitis B, and other blood-borne pathogens in health care  
36 settings. As necessary, the board shall consult with the Medical  
37 Board of California, the *California* Board of Podiatric Medicine,  
38 the Board of Registered Nursing, and the Board of Vocational  
39 Nursing and Psychiatric Technicians, to encourage appropriate  
40 consistency in the implementation of this subdivision.

1 The board shall seek to ensure that licensees and others regulated  
2 by the board are informed of the responsibility of licensees and  
3 others to follow infection control guidelines, and of the most recent  
4 scientifically recognized safeguards for minimizing the risk of  
5 transmission of blood-borne infectious diseases.

6 (ee) The utilization by a licensed dentist of any person to  
7 perform the functions of a registered dental assistant, registered  
8 dental assistant in extended functions, registered dental hygienist,  
9 or registered dental hygienist in extended functions who, at the  
10 time of initial employment, does not possess a current, valid license  
11 to perform those functions.

12 (ff) The prescribing, dispensing, or furnishing of dangerous  
13 drugs or devices, as defined in Section 4022, in violation of Section  
14 2242.1.

15 SEC. 8. Section 1721 of the Business and Professions Code is  
16 amended to read:

17 1721. Except as provided in ~~Section 1721.5~~ *Sections 1721.5*  
18 *and 1945*, all funds received by the ~~State~~ Treasurer under the  
19 authority of this chapter shall be placed in the State Dentistry Fund.  
20 Except as provided in ~~Section 1721.5~~ *Sections 1721.5 and 1945*,  
21 all disbursements by the board made in the transaction of its  
22 business and in the enforcement of this chapter shall be paid out  
23 of the fund upon claims against the state.

24 SEC. 9. Section 1721.5 of the Business and Professions Code  
25 is amended to read:

26 1721.5. All funds received by the ~~State~~ Treasurer under the  
27 authority of this chapter ~~which~~ *that* relate to *registered* dental  
28 ~~auxiliaries assistants~~ shall be placed in the State Dental ~~Auxiliary~~  
29 *Assistant* Fund for the purposes of administering this chapter as it  
30 relates to *registered* dental ~~auxiliaries~~ *assistants*.

31 SEC. 10. Section 1725 of the Business and Professions Code  
32 is amended to read:

33 1725. The amount of the fees prescribed by this chapter that  
34 relate to the licensing of dental auxiliaries shall be established by  
35 board resolution and subject to the following limitations:

36 (a) The application fee for an original license shall not exceed  
37 twenty dollars (\$20).

38 (b) (1) The fee for examination for licensure as a registered  
39 dental assistant shall not exceed fifty dollars (\$50) for the written

1 examination and shall not exceed sixty dollars (\$60) for the  
2 practical examination.

3 (2) On and after January 1, 2008, ~~the following fees are~~  
4 ~~established for fee for application and for the issuance of a license~~  
5 ~~as a registered orthodontic assistants assistant, registered surgery~~  
6 ~~assistants assistant, registered restorative assistants, and assistant,~~  
7 ~~or registered dental assistants: assistant shall not exceed fifty~~  
8 ~~dollars (\$50), and the fee for the practical examination for~~  
9 ~~licensure as a registered orthodontic assistant, registered surgery~~  
10 ~~assistant, or registered restorative assistant shall not exceed sixty~~  
11 ~~dollars (\$60).~~

12 ~~(A) The fee for application and for the issuance of a license~~  
13 ~~shall not exceed fifty dollars (\$50).~~

14 ~~(B) The fee for the practical examination shall not exceed~~  
15 ~~ninety-five dollars (\$95), nor shall it exceed the actual cost of the~~  
16 ~~examination.~~

17 ~~(C) The fee for a written examination shall not exceed eighty~~  
18 ~~dollars (\$80), nor shall it exceed the actual cost of the examination.~~

19 (c) The fee for examination for licensure as a registered dental  
20 assistant in extended functions or a registered restorative assistant  
21 in extended functions shall not exceed two hundred fifty dollars  
22 (\$250).

23 ~~(d) The fee for examination for licensure as a registered dental~~  
24 ~~hygienist shall not exceed two hundred twenty dollars (\$220).~~

25 ~~(e) For third- and fourth-year dental students, the fee for~~  
26 ~~examination for licensure as a registered dental hygienist shall not~~  
27 ~~exceed the actual cost of the examination.~~

28 ~~(f) The fee for examination for licensure as a registered dental~~  
29 ~~hygienist in extended functions shall not exceed two hundred fifty~~  
30 ~~dollars (\$250).~~

31 ~~(g) The board shall establish the fee at an amount not to exceed~~  
32 ~~the actual cost for licensure as a registered dental hygienist in~~  
33 ~~alternative practice.~~

34 ~~(h)~~

35 (d) The biennial renewal fee for a dental auxiliary whose license  
36 expires on or after January 1, 1991, shall not exceed sixty dollars  
37 (\$60). On or after January 1, 1992, the board may set the renewal  
38 fee in an amount not to exceed eighty dollars (\$80).

39 (i)

1 (e) The delinquency fee shall not exceed twenty-five dollars  
2 (\$25) or one-half of the renewal fee, whichever is greater. Any  
3 delinquent license may be restored only upon payment of all fees,  
4 including the delinquency fee.

5 ~~(j)~~

6 (f) The fee for issuance of a duplicate registration, license, or  
7 certificate to replace one that is lost or destroyed, or in the event  
8 of a name change, shall not exceed twenty-five dollars (\$25).

9 ~~(k)~~

10 (g) The fee for each curriculum review and site evaluation for  
11 educational programs for registered dental assistants ~~which~~ *that*  
12 are not accredited by a board-approved agency, the Council for  
13 Private Postsecondary and Vocational Education, or the  
14 Chancellor's office of the California Community Colleges shall  
15 not exceed one thousand four hundred dollars (\$1,400).

16 ~~(h)~~

17 (h) The fee for each review of radiation safety courses or  
18 specialty registration courses that are not accredited by a  
19 board-approved agency, the Council for Private Postsecondary  
20 and Vocational Education, or the Chancellor's office of the  
21 California Community Colleges shall not exceed three hundred  
22 dollars (\$300).

23 ~~(m)~~

24 (i) No fees or charges other than those listed in subdivisions (a)  
25 through ~~(k)~~ *above* (h) shall be levied by the board in connection  
26 with the licensure of dental auxiliaries, registered dental assistants  
27 educational program site evaluations and radiation safety course  
28 evaluations pursuant to this chapter.

29 ~~(n)~~

30 (j) Fees fixed by the board pursuant to this section shall not be  
31 subject to the approval of the Office of Administrative Law.

32 ~~(o)~~

33 (k) Fees collected pursuant to this section shall be deposited in  
34 the State Dental ~~Auxiliary~~ *Assistant* Fund.

35 SEC. 11. Section 1741 of the Business and Professions Code  
36 is amended to read:

37 1741. As used in this article:

38 (a) "Board" means the Dental Board of California.

39 (b) "Committee" means the Committee on Dental ~~Auxiliaries~~  
40 *Assistants*.

1 (c) “Direct supervision” means supervision of dental procedures  
2 based on instructions given by a licensed dentist, who must be  
3 physically present in the treatment facility during the performance  
4 of those procedures.

5 (d) “General supervision” means supervision of dental  
6 procedures based on instructions given by a licensed dentist but  
7 not requiring the physical presence of the supervising dentist during  
8 the performance of those procedures.

9 (e) “Dental auxiliary” means a person who may perform dental  
10 assisting or dental hygiene procedures authorized by this article.

11 SEC. 12. Section 1742 of the Business and Professions Code  
12 is amended to read:

13 1742. (a) There is within the jurisdiction of the board a  
14 Committee on Dental ~~Auxiliaries~~ *Assistants*.

15 (b) The Committee on Dental ~~Auxiliaries~~ *Assistants* shall have  
16 the following areas of responsibility and duties:

17 (1) The committee shall have the following duties and authority  
18 related to education programs and curriculum:

19 (A) Shall evaluate all dental auxiliary programs applying for  
20 board approval in accordance with board rules governing the  
21 programs.

22 (B) May appoint board members to any evaluation committee.  
23 Board members so appointed shall not make a final decision on  
24 the issue of program or course approval.

25 (C) Shall report and make recommendations to the board as to  
26 whether a program or course qualifies for approval. The board  
27 retains the final authority to grant or deny approval to a program  
28 or course.

29 (D) Shall review and document any alleged deficiencies that  
30 might warrant board action to withdraw or revoke approval of a  
31 program or course, at the request of the board.

32 (E) May review and document any alleged deficiencies that  
33 might warrant board action to withdraw or revoke approval of a  
34 program or course, at its own initiation.

35 (2) The committee shall have the following duties and authority  
36 related to applications:

37 (A) Shall review and evaluate all applications for licensure in  
38 the various dental auxiliary categories to ascertain whether a  
39 candidate meets the appropriate licensing requirements specified  
40 by statute and board regulations.

1 (B) Shall maintain application records, cashier application fees,  
2 and perform any other ministerial tasks as are incidental to the  
3 application process.

4 (C) May delegate any or all of the functions in this paragraph  
5 to its staff.

6 (D) Shall issue *dental* auxiliary licenses in all cases, except  
7 where there is a question as to a licensing requirement. The board  
8 retains final authority to interpret any licensing requirement. If a  
9 question arises in the area of interpreting any licensing requirement,  
10 it shall be presented by the committee to the board for resolution.

11 (3) The committee shall have the following duties and authority  
12 regarding examinations:

13 (A) Shall advise the board as to the type of license examination  
14 it deems appropriate for the various dental auxiliary license  
15 categories.

16 (B) Shall, at the direction of the board, develop or cause to be  
17 developed, administer, or both, examinations in accordance with  
18 the board's instructions and periodically report to the board on the  
19 progress of those examinations. The following shall apply to the  
20 examination procedure:

21 (i) The examination shall be submitted to the board for its  
22 approval prior to its initial administration.

23 (ii) Once an examination has been approved by the board, no  
24 further approval is required unless a major modification is made  
25 to the examination.

26 (iii) The committee shall report to the board on the results of  
27 each examination and shall, where appropriate, recommend pass  
28 points.

29 (iv) The board shall set pass points for all dental auxiliary  
30 licensing examinations.

31 (C) May appoint board members to any examination committee  
32 established pursuant to subparagraph (B).

33 (4) The committee shall periodically report and make  
34 recommendations to the board concerning the level of fees for  
35 dental auxiliaries and the need for any legislative fee increase.  
36 However, the board retains final authority to set all fees.

37 (5) The committee shall be responsible for all aspects of the  
38 license renewal process, which shall be accomplished in accordance  
39 with this chapter and board regulations. The committee may  
40 delegate any or all of its functions under this paragraph to its staff.

1 (6) The committee shall have no authority with respect to the  
2 approval of continuing education providers and the board retains  
3 all of this authority.

4 (7) The committee shall advise the board as to appropriate  
5 standards of conduct for *dental* auxiliaries, the proper ordering of  
6 enforcement priorities, and any other enforcement-related matters  
7 that the board may, in the future, delegate to the committee. The  
8 board shall retain all authority with respect to the enforcement  
9 actions, including, but not limited to, complaint resolution,  
10 investigation, and disciplinary action against *dental* auxiliaries.

11 (8) The committee shall have the following duties regarding  
12 regulations:

13 (A) To review and evaluate all suggestions or requests for  
14 regulatory changes related to dental auxiliaries.

15 (B) To report and make recommendations to the board, after  
16 consultation with departmental legal counsel and the board's  
17 executive officer.

18 (C) To include in any report regarding a proposed regulatory  
19 change, at a minimum, the specific language of the proposed  
20 changes and the reasons for and facts supporting the need for the  
21 change. The board has the final rulemaking authority.

22 (c) This section shall become inoperative on July 1, ~~2009~~ 2010,  
23 and, as of January 1, ~~2010~~ 2011, is repealed, unless a later enacted  
24 statute which becomes effective on or before January 1, ~~2010~~ 2011,  
25 deletes or extends the dates on which it becomes inoperative and  
26 is repealed. The repeal of this section renders the committee subject  
27 to the review required by Division 1.2 (commencing with Section  
28 473).

29 SEC. 13. Section 1742.1 of the Business and Professions Code  
30 is amended to read:

31 1742.1. Protection of the public shall be the highest priority  
32 for the Committee on Dental ~~Auxiliaries~~ *Assistants* in exercising  
33 its licensing, regulatory, and disciplinary functions. Whenever the  
34 protection of the public is inconsistent with other interests sought  
35 to be promoted, the protection of the public shall be paramount.

36 SEC. 14. Section 1743 of the Business and Professions Code  
37 is amended to read:

38 1743. The committee shall consist of the following ~~nine~~ *six*  
39 members:



1 (a) One member who is a public member of the board, one  
2 member who is a licensed dentist and who has been appointed by  
3 the board as an examiner pursuant to Section 1621, one member  
4 who is a licensed dentist who is neither a board member nor  
5 appointed by the board as an examiner pursuant to Section 1621;  
6 ~~three members who are licensed as registered dental hygienists,~~  
7 ~~at least one of whom is actively employed in a private dental office;~~  
8 and three members who are licensed as registered dental assistants.  
9 ~~If available, an individual licensed as a registered dental hygienist~~  
10 ~~in extended functions shall be appointed in place of one of the~~  
11 ~~members licensed as a registered dental hygienist. If available, an~~  
12 ~~individual licensed as a registered dental assistant in extended~~  
13 ~~functions shall be appointed in place of one of the members~~  
14 ~~licensed as a registered dental assistant.~~

15 (b) The public member of the board shall not have been licensed  
16 under Chapter 4 (commencing with Section 1600) of the Business  
17 and Professions Code *this chapter* within five years of the  
18 appointment date and shall not have any current financial interest  
19 in a dental-related business.

20 SEC. 15. Section 1744 of the Business and Professions Code  
21 is amended to read:

22 1744. (a) The members of the committee shall be appointed  
23 by the Governor. ~~The terms of the member who is a board member~~  
24 ~~and the member who has been appointed by the board as an~~  
25 ~~examiner pursuant to Section 1621 shall expire December 31,~~  
26 ~~1976. The terms of the member who is a licensed dentist and one~~  
27 ~~member who is a dental assistant and one member who is licensed~~  
28 ~~as a registered dental hygienist shall expire on December 31, 1977.~~  
29 ~~The terms of all other members shall expire on December 31, 1978.~~  
30 ~~Thereafter, appointments~~ *Appointments* shall be for a term of four  
31 years.

32 (b) No member shall serve as a member of the committee for  
33 more than two consecutive terms. Vacancies shall be filled by  
34 appointment for the unexpired terms. The committee shall annually  
35 elect one of its members as chairperson.

36 (c) The Governor shall have the power to remove any member  
37 of the committee from office for neglect of any duty required by  
38 law or for incompetence or unprofessional or dishonorable conduct.

39 SEC. 16. Section 1760 of the Business and Professions Code  
40 is repealed.

1     ~~1760.—The following functions may be performed by a~~  
2     ~~registered dental hygienist in addition to those authorized pursuant~~  
3     ~~to Sections 1760.5, 1761, 1762, 1763, and 1764:~~

4     ~~(a) All functions that may be performed by a dental assistant or~~  
5     ~~a registered dental assistant.~~

6     ~~(b) All persons holding a license as a registered dental hygienist~~  
7     ~~on January 1, 2003, or issued a license on or before December 31,~~  
8     ~~2005, are authorized to perform the duties of a registered dental~~  
9     ~~assistant specified in Section 1754. All persons issued a license as~~  
10    ~~a registered dental hygienist on and after January 1, 2006, shall~~  
11    ~~qualify for and receive a registered dental assistant license prior~~  
12    ~~to performance of the duties specified in Section 1754.~~

13    SEC. 17. Section 1760.5 of the Business and Professions Code  
14    is repealed.

15    ~~1760.5.—(a) The practice of dental hygiene includes dental~~  
16    ~~hygiene assessment, development, planning, and implementation~~  
17    ~~of a dental hygiene care plan. It also includes oral health education,~~  
18    ~~counseling, and health screenings.~~

19    ~~(b) The practice of dental hygiene does not include any of the~~  
20    ~~following procedures:~~

21    ~~(1) Diagnosis and comprehensive treatment planning.~~

22    ~~(2) Placing, condensing, carving, or removal of permanent~~  
23    ~~restorations.~~

24    ~~(3) Surgery or cutting on hard and soft tissue including, but not~~  
25    ~~limited to, the removal of teeth and the cutting and suturing of soft~~  
26    ~~tissue.~~

27    ~~(4) Prescribing medication.~~

28    ~~(5) Administering local or general anesthesia or oral or~~  
29    ~~parenteral conscious sedation, except for the administration of~~  
30    ~~nitrous oxide and oxygen, whether administered alone or in~~  
31    ~~combination with each other, or local anesthesia pursuant to Section~~  
32    ~~1761.~~

33    SEC. 18. Section 1761 of the Business and Professions Code  
34    is repealed.

35    ~~1761.—A dental hygienist is authorized to perform the following~~  
36    ~~procedures under direct supervision, after submitting to the board~~  
37    ~~evidence of satisfactory completion of a board-approved course~~  
38    ~~of instruction in the procedures:~~

39    ~~(a) Soft-tissue curettage.~~

40    ~~(b) Administration of local anesthesia.~~

1 ~~(e) Administration of nitrous oxide and oxygen, whether~~  
2 ~~administered alone or in combination with each other.~~

3 SEC. 19. Section 1762 of the Business and Professions Code  
4 is repealed.

5 1762. A dental hygienist is authorized to perform the following  
6 procedures under general supervision:

7 ~~(a) Preventive and therapeutic interventions, including oral~~  
8 ~~prophylaxis, sealing, and root planing.~~

9 ~~(b) Application of topical, therapeutic, and subgingival agents~~  
10 ~~used for the control of caries and periodontal disease.~~

11 ~~(c) The taking of impressions for bleaching trays and application~~  
12 ~~and activation of agents with nonlaser, light-curing devices.~~

13 ~~(d) The taking of impressions for bleaching trays and placements~~  
14 ~~of in-office, tooth-whitening devices.~~

15 SEC. 20. Section 1763 of the Business and Professions Code  
16 is repealed.

17 1763. (a) A dental hygienist may provide, without supervision,  
18 educational services, oral health training programs, and oral health  
19 screenings:

20 ~~(b) A dental hygienist shall refer any screened patients with~~  
21 ~~possible oral abnormalities to a dentist for a comprehensive~~  
22 ~~examination, diagnosis, and treatment plan.~~

23 ~~(c) In any public health program created by federal, state, or~~  
24 ~~local law or administered by a federal, state, county, or local~~  
25 ~~governmental entity, a dental hygienist may provide, without~~  
26 ~~supervision, dental hygiene preventive services in addition to oral~~  
27 ~~screenings, including, but not limited to, the application of fluorides~~  
28 ~~and pit and fissure sealants.~~

29 SEC. 21. Section 1764 of the Business and Professions Code  
30 is repealed.

31 1764. (a) Any procedure performed or service provided by a  
32 dental hygienist that does not specifically require direct supervision  
33 shall require general supervision, so long as it does not give rise  
34 to a situation in the dentist's office requiring immediate services  
35 for alleviation of severe pain, or immediate diagnosis and treatment  
36 of unforeseeable dental conditions, which, if not immediately  
37 diagnosed and treated, would lead to serious disability or death.

38 ~~(b) Unless otherwise specified in this chapter, a dental hygienist~~  
39 ~~may perform any procedure or provide any service within the scope~~  
40 ~~of his or her practice in any setting, so long as the procedure is~~

1 performed or the service is provided under the appropriate level  
2 of supervision required by this article.

3 (e) A dental hygienist may use any material or device approved  
4 for use in the performance of a service or procedure within his or  
5 her scope of practice under the appropriate level of supervision,  
6 if the dental hygienist has the appropriate education and training  
7 required to use the material or device.

8 SEC. 22. Section 1765 of the Business and Professions Code  
9 is repealed.

10 1765. No person other than a licensed dental hygienist or a  
11 licensed dentist may engage in the practice of dental hygiene or  
12 perform dental hygiene procedures on patients, including, but not  
13 limited to, supragingival and subgingival sealing, dental hygiene  
14 assessment, and treatment planning, except for the following  
15 persons:

16 (a) A student enrolled in a dental or a dental hygiene school  
17 who is performing procedures as part of the regular curriculum of  
18 that program under the supervision of the faculty of that program.

19 (b) A dental assistant acting in accordance with the rules of the  
20 board in performing the following procedures:

21 (1) Applying nonacrosol and noncaustic topical agents.

22 (2) Applying topical fluoride.

23 (3) Taking impression for bleaching trays.

24 (c) A registered dental assistant acting in accordance with the  
25 rules of the board in performing the following procedures:

26 (1) Polishing the coronal surfaces of teeth.

27 (2) Applying bleaching agents.

28 (3) Activating bleaching agents with a nonlaser light-curing  
29 device.

30 (d) A registered dental assistant in extended functions acting in  
31 accordance with the rules of the board in applying pit and fissure  
32 sealants.

33 (e) A registered dental hygienist licensed in another jurisdiction  
34 performing a clinical demonstration for educational purposes.

35 SEC. 23. Section 1766 of the Business and Professions Code  
36 is repealed.

37 1766. (a) The board shall license as a registered dental  
38 hygienist a person who satisfies all of the following requirements:

39 (1) Completion of an educational program for registered dental  
40 hygienists, approved by the board, and accredited by the

~~Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.~~

~~(2) Satisfactory performance on an examination required by the board.~~

~~(3) Satisfactory completion of a national written dental hygiene examination approved by the board.~~

~~(b) The board may grant a license as a registered dental hygienist to an applicant who has not taken an examination before the board, if the applicant submits all of the following to the board:~~

~~(1) A completed application form and all fees required by the board.~~

~~(2) Proof of a current license as a registered dental hygienist issued by another state that is not revoked, suspended, or otherwise restricted.~~

~~(3) Proof that the applicant has been in clinical practice as a registered dental hygienist or has been a full-time faculty member in an accredited dental hygiene education program for a minimum of 750 hours per year for at least five years preceding the date of his or her application under this section. The clinical practice requirement shall be deemed met if the applicant provides proof of at least three years of clinical practice and commits to completing the remaining two years of clinical practice by filing with the board a copy of a pending contract to practice dental hygiene in any of the following facilities:~~

~~(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.~~

~~(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.~~

~~(C) A clinic owned or operated by a public hospital or health system.~~

~~(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.~~

~~(4) Proof that the applicant has not been subject to disciplinary action by any state in which he or she is or has been previously licensed as a registered dental hygienist or dentist. If the applicant has been subject to disciplinary action, the board shall review that action to determine if it warrants refusal to issue a license to the applicant.~~

~~(5) Proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation.~~

~~(6) Proof of satisfactory completion of the Dental Hygiene National Board Examination and of a state or regional clinical licensure examination.~~

~~(7) Proof that the applicant has not failed the examination for licensure to practice dental hygiene under this chapter more than once or once within five years prior to the date of his or her application for a license under this section.~~

~~(8) Documentation of completion of a minimum of 25 units of continuing education earned in the two years preceding application, including completion of any continuing education requirements imposed by the board on registered dental hygienists licensed in this state at the time of application.~~

~~(9) Any other information as specified by the board to the extent that it is required of applicants for licensure by examination under this article.~~

~~(c) The board may periodically request verification of compliance with the requirements of paragraph (3) of subdivision (b), and may revoke the license upon a finding that the employment requirement or any other requirement of paragraph (3) has not been met.~~

~~(d) The board shall provide in the application packet to each out-of-state dental hygienist pursuant to this section the following information:~~

~~(1) The location of dental manpower shortage areas in the state.~~

~~(2) Any not-for-profit clinics, public hospitals, and accredited dental hygiene education programs seeking to contract with licensees for dental hygiene service delivery or training purposes.~~

~~(e) The board shall review the impact of this section on the availability of actively practicing dental hygienists in California and report to the appropriate policy and fiscal committees of the Legislature by January 1, 2006. The report shall include a separate section providing data specific to dental hygienists who intend to fulfill the alternative clinical practice requirements of subdivision (b). The report shall include, but not be limited to, the following:~~

~~(1) The number of applicants from other states who have sought licensure.~~

~~(2) The number of dental hygienists from other states licensed pursuant to this section, the number of licenses not granted under this section, and the reason why the license was not granted.~~

~~(3) The practice location of dental hygienists licensed pursuant to this section.~~

~~(4) The number of dental hygienists licensed pursuant to this section who establish a practice in a rural area or in an area designated as having a shortage of practicing dental hygienists or no dental hygienists or in a safety net facility identified in paragraph (3) of subdivision (b).~~

~~(5) The length of time dental hygienists licensed pursuant to this section practiced in the reported location.~~

~~(f) In identifying a dental hygienist's location of practice, the board shall use medical service study areas or other appropriate geographic descriptions for regions of the state.~~

~~(g) (1) The board shall license as a registered dental hygienist a third- or fourth-year dental student who is in good standing at an accredited California dental school and who satisfies the following requirements:~~

~~(A) Satisfactorily performs on an examination required by the board.~~

~~(B) Satisfactorily completes a national written dental hygiene examination approved by the board.~~

~~(2) A dental student who is granted a registered dental hygienist license pursuant to this subdivision may only practice in a dental practice that serves patients who are insured under Denti-Cal, the Healthy Families Program, or other government programs, or a dental practice that has a sliding scale fee system based on income.~~

~~(3) Upon receipt of a license to practice dentistry pursuant to Section 1634, a registered dental hygiene license issued pursuant to this subdivision is automatically revoked.~~

~~(4) The dental hygiene license is granted for two years upon passage of the dental hygiene examination, without the ability for renewal.~~

~~(5) Notwithstanding paragraph (4), if a dental student fails to remain in good standing at an accredited California dental school, or fails to graduate from the dental program, a registered dental hygiene license issued pursuant to this subdivision shall be revoked. The student shall be responsible for submitting appropriate verifying documentation to the board.~~

1     ~~(6) The provisions of paragraphs (1) and (2) shall be reviewed~~  
2     ~~pursuant to Division 1.2 (commencing with Section 473). However,~~  
3     ~~the review shall be limited to the fiscal feasibility and impact on~~  
4     ~~the board.~~

5     ~~(7) This subdivision is inoperative as of January 1, 2009.~~

6     SEC. 24. Section 1768 of the Business and Professions Code  
7     is repealed.

8     ~~1768. The board shall license as a registered dental hygienist~~  
9     ~~in extended functions a person who meets all of the following~~  
10    ~~requirements:~~

11    ~~(a) Holds a valid license issued pursuant to Section 1766 as a~~  
12    ~~registered dental hygienist.~~

13    ~~(b) Completes clinical training approved by the board in a~~  
14    ~~facility affiliated with a dental school under the direct supervision~~  
15    ~~of the dental school faculty.~~

16    ~~(c) Performs satisfactorily on an examination required by the~~  
17    ~~board.~~

18    SEC. 25. Section 1769 of the Business and Professions Code  
19    is repealed.

20    ~~1769. The board, in consultation with the committee, shall~~  
21    ~~adopt regulations necessary to define the functions that may be~~  
22    ~~performed by registered dental hygienists in extended functions,~~  
23    ~~whether the functions require direct or general supervision, and~~  
24    ~~the settings within which registered dental hygienists in extended~~  
25    ~~functions may work.~~

26    SEC. 26. Section 1770 of the Business and Professions Code,  
27    as amended by Section 23 of Chapter 621 of the Statutes of 2005,  
28    is amended to read:

29    1770. ~~(a)~~ A licensed dentist may simultaneously utilize in his  
30    or her practice no more than three dental auxiliaries in extended  
31    functions *or registered dental hygienists in extended functions*  
32    licensed pursuant to Sections 1753 and ~~1768~~ 1918.

33    ~~(b) This section shall become operative on January 1, 2008.~~

34    SEC. 27. Section 1771 of the Business and Professions Code  
35    is amended to read:

36    1771. Any person, other than a person who has been issued a  
37    license by the board, who holds himself or herself out as a  
38    registered dental assistant; *or* registered dental assistant in extended  
39    functions; ~~registered dental hygienist, registered dental hygienist~~  
40    ~~in extended functions, or registered dental hygienist in alternative~~



1 practice, or uses any other term indicating or implying he or she  
2 is licensed by the board in the aforementioned categories *as such*,  
3 is guilty of a misdemeanor.

4 SEC. 28. Section 1772 of the Business and Professions Code  
5 is repealed.

6 ~~1772. The board shall seek to obtain an injunction against any~~  
7 ~~dental hygienist who provides services in alternative practice~~  
8 ~~pursuant to Sections 1774 and 1775 if the board has reasonable~~  
9 ~~cause to believe that the services are being provided to a patient~~  
10 ~~who has not received a prescription for those services from a dentist~~  
11 ~~or physician and surgeon licensed to practice in this state.~~

12 SEC. 29. Section 1774 of the Business and Professions Code  
13 is repealed.

14 ~~1774. (a) The board shall license as a registered dental~~  
15 ~~hygienist in alternative practice a person who demonstrates~~  
16 ~~satisfactory performance on an examination required by the board~~  
17 ~~and, subject to Sections 1760 and 1766, who meets either of the~~  
18 ~~following requirements:~~

19 ~~(1) Holds a current California license as a dental hygienist and~~  
20 ~~meets the following requirements:~~

21 ~~(A) Has been engaged in clinical practice as a dental hygienist~~  
22 ~~for a minimum of 2,000 hours during the immediately preceding~~  
23 ~~36 months.~~

24 ~~(B) Has successfully completed a bachelor's degree or its~~  
25 ~~equivalent from a college or institution of higher education that is~~  
26 ~~accredited by a national agency recognized by the Council on~~  
27 ~~Postsecondary Accreditation or the United States Department of~~  
28 ~~Education, and a minimum of 150 hours of additional educational~~  
29 ~~requirements, as prescribed by the board by regulation, that are~~  
30 ~~consistent with good dental and dental hygiene practice, including,~~  
31 ~~but not necessarily limited to, dental hygiene technique and theory~~  
32 ~~including gerontology and medical emergencies, and business~~  
33 ~~administration and practice management.~~

34 ~~(2) Has received a letter of acceptance into the employment~~  
35 ~~utilization phase of the Health Manpower Pilot Project No. 155~~  
36 ~~established by the Office of Statewide Health Planning and~~  
37 ~~Development pursuant to Article 1 (commencing with Section~~  
38 ~~128125) of Chapter 3 of Part 3 of Division 107 of the Health and~~  
39 ~~Safety Code.~~

~~(b) Subject to the provisions of subdivisions (b) and (h) of Section 1775, the board, in consultation with the committee, shall adopt regulations in accordance with Section 1748 necessary to implement this section.~~

~~(e) The Director of Consumer Affairs shall review the regulations adopted by the board in accordance with Section 313.1.~~

~~(d) A person licensed as a registered dental hygienist who has completed the prescribed classes through the Health Manpower Pilot Project (HMPP) and who has established an independent practice under the HMPP by June 30, 1997, shall be deemed to have satisfied the licensing requirements under Section 1774, and shall be authorized to continue to operate the practice he or she presently operates, so long as he or she follows the requirements for prescription and functions as specified in this section and Section 1775, with the exception of subdivision (e) of Section 1775, and as long as he or she continues to personally practice and operate the practice or until he or she sells the practice to a licensed dentist.~~

SEC. 30. Section 1775 of the Business and Professions Code is repealed.

~~1775. (a) A registered dental hygienist in alternative practice may perform those preventive and therapeutic functions described in subdivision (a) of Section 1760, subdivision (a) of Section 1760.5, and subdivisions (a) and (b) of Section 1762 as an employee of a dentist or of another registered dental hygienist in alternative practice, or as an independent contractor, or as a sole proprietor of an alternative dental hygiene practice, or as an employee of a primary care clinic or specialty clinic that is licensed pursuant to Section 1204 of the Health and Safety Code or as an employee of a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, or as an employee of a clinic owned or operated by a public hospital or health system, or as an employee of a clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.~~

~~(b) A registered dental hygienist in alternative practice may perform the dental hygiene services specified in subdivision (a) in the following settings:~~

~~(1) Residences of the homebound.~~

1 ~~(2) Schools.~~

2 ~~(3) Residential facilities and other institutions.~~

3 ~~(4) Dental health professional shortage areas, as certified by the~~  
4 ~~Office of Statewide Health Planning and Development in~~  
5 ~~accordance with existing office guidelines.~~

6 ~~(e) A registered dental hygienist in alternative practice shall not~~  
7 ~~do any of the following:~~

8 ~~(1) Infer, purport, advertise, or imply that he or she is in any~~  
9 ~~way able to provide dental services or make any type of dental~~  
10 ~~health diagnosis beyond those services specified in subdivision~~  
11 ~~(a).~~

12 ~~(2) Hire a registered dental hygienist to provide direct patient~~  
13 ~~services other than a registered dental hygienist in alternative~~  
14 ~~practice.~~

15 ~~(d) A registered dental hygienist in alternative practice may~~  
16 ~~submit or allow to be submitted any insurance or third-party claims~~  
17 ~~for patient services performed as authorized pursuant to this article.~~

18 ~~(e) A registered dental hygienist in alternative practice may hire~~  
19 ~~other registered dental hygienists in alternative practice to assist~~  
20 ~~in his or her practice.~~

21 ~~(f) A registered dental hygienist in alternative practice may hire~~  
22 ~~and supervise dental assistants performing functions specified in~~  
23 ~~subdivision (b) of Section 1751.~~

24 ~~(g) A registered dental hygienist in alternative practice shall~~  
25 ~~provide to the board documentation of an existing relationship~~  
26 ~~with at least one dentist for referral, consultation, and emergency~~  
27 ~~services.~~

28 ~~(h) (1) A dental hygienist in alternative practice may provide~~  
29 ~~services to a patient without obtaining written verification that the~~  
30 ~~patient has been examined by a dentist or physician and surgeon~~  
31 ~~licensed to practice in this state.~~

32 ~~(2) If a dental hygienist in alternative practice provides services~~  
33 ~~to a patient 18 months or more after the first date that he or she~~  
34 ~~provides services to a patient, he or she shall obtain written~~  
35 ~~verification that the patient has been examined by a dentist or~~  
36 ~~physician and surgeon licensed to practice in this state. The~~  
37 ~~verification shall include a prescription for dental hygiene services~~  
38 ~~as described in subdivision (i). Failure to comply with this~~  
39 ~~paragraph or subdivision (i) shall be considered unprofessional~~  
40 ~~conduct.~~

~~(i) A registered dental hygienist in alternative practice may perform dental hygiene services for a patient who presents to the registered hygienist in alternative practice a written prescription for dental hygiene services issued by a dentist or physician and surgeon licensed to practice in this state. The prescription shall be valid for a time period based on the dentist's or physician and surgeon's professional judgment, but not to exceed two years from the date that it was issued.~~

SEC. 31. Article 9 (commencing with Section 1900) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

#### Article 9. Dental Hygienists

1900. It is the intent of the Legislature by enactment of this article to permit the full utilization of dental hygienists in order to meet the dental care needs of all of the state's citizens.

1901. There is hereby created in the Department of Consumer Affairs a California Dental Hygiene Bureau in which the administration of this article is vested.

1902. For purposes of this article, the following definitions apply:

(a) "Bureau" means the California Dental Hygiene Bureau.

(b) "Committee" means the Dental Hygiene Advisory Bureau.

(c) "Dental board" means the Dental Board of California.

(d) "Direct supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is required to be physically present in the treatment facility during the performance of those procedures.

(e) "General supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is not required to be physically present in the treatment facility during the performance of those procedures.

(f) "Oral prophylaxis" means preventive and therapeutic dental procedures that include bacterial debridements with complete removal, supra and subgingivally, of calculus, soft deposits, plaque, and stains, and the smoothing of tooth surfaces. The objective of this treatment is to create an environment in which the patient can maintain healthy hard and soft tissues.

1 1903. (a) (1) The Governor shall appoint, subject to  
2 confirmation by the Senate, a chief of the bureau at a salary to be  
3 fixed and determined by the director, with the approval of the  
4 Director of Finance. The duty of enforcing and administering this  
5 chapter is vested in the chief, and he or she is responsible to the  
6 director therefor. The chief shall serve under the direction and  
7 supervision of the director and at the pleasure of the Governor.  
8 Before a chief is appointed, the Governor shall give due  
9 consideration to any person or persons recommended by the board.

10 (2) Every power granted or duty imposed upon the director  
11 under this chapter may be exercised or performed in the name of  
12 the director by a deputy director or by the chief, subject to such  
13 conditions and limitations as the director may prescribe.

14 (b) (1) There is within the bureau a Dental Hygiene Advisory  
15 Bureau. The Dental Hygiene Advisory Bureau shall consist of nine  
16 members appointed by the Governor. Four shall be public  
17 members, one member shall be a public health dentist who holds  
18 a current license in California, and four members shall be registered  
19 dental hygienists who hold current licenses in California. Of the  
20 registered dental hygienists members, one shall be licensed either  
21 in alternative practice or in extended functions, one shall be a  
22 dental hygiene educator, and two shall be registered dental  
23 hygienists. No public member shall have been licensed under this  
24 chapter within five years of the date of his or her appointment or  
25 have any current financial interest in a dental-related business.

26 (2) For purposes of this subdivision, a public health dentist is  
27 a dentist whose primary employer or place of employment is in  
28 any of the following:

29 (A) A primary care clinic licensed under subdivision (a) of  
30 Section 1204 of the Health and Safety Code.

31 (B) A primary care clinic exempt from licensure pursuant to  
32 subdivision (c) of Section 1206 of the Health and Safety Code.

33 (C) A clinic owned or operated by a public hospital or health  
34 system.

35 (D) A clinic owned and operated by a hospital that maintains  
36 the primary contract with a county government to fill the county's  
37 role under Section 17000 of the Welfare and Institutions Code.

38 (c) Except for the initial term, members of the Dental Hygiene  
39 Advisory Bureau shall be appointed for a term of four years. Of  
40 the initial appointments, the terms shall expire as follows:

1 (1) The term of the licensed dentist member, one of the public  
2 members, and one of the registered dental hygienists shall expire  
3 on December 31, 2008.

4 (2) The term of a second public member, the other registered  
5 dental hygienist, and the registered dental hygienist in alternative  
6 practice or in extended functions shall expire on December 31,  
7 2009.

8 (3) The term of the remaining members shall expire on  
9 December 31, 2010.

10 (d) The Dental Hygiene Advisory Bureau shall annually elect  
11 one of its members as president.

12 (e) No person shall serve as a member of the Dental Hygiene  
13 Advisory Bureau for more than two consecutive terms.

14 (f) A vacancy in the Dental Hygiene Advisory Bureau shall be  
15 filled by appointment to the unexpired term.

16 (g) Each member of the Dental Hygiene Advisory Bureau shall  
17 receive a per diem and expenses as provided in Section 103.

18 (h) The Governor shall have the power to remove any member  
19 from the Dental Hygiene Advisory Bureau for neglect of a duty  
20 required by law, for incompetence, or for unprofessional or  
21 dishonorable conduct.

22 1904. (a) The Dental Hygiene Advisory Bureau shall meet at  
23 least two times each calendar year and shall conduct additional  
24 meetings in appropriate locations that are necessary to transact its  
25 business.

26 (b) The Dental Hygiene Advisory Bureau shall do all of the  
27 following:

28 (1) Examine the functions and policies of the bureau and make  
29 recommendations with respect to policies, practices, and  
30 regulations as may be deemed important and necessary by the  
31 director or the chief to promote the interests of consumers or that  
32 otherwise promote the welfare of the public.

33 (2) Consider and make appropriate recommendations to the  
34 bureau in all matters relating to dental hygiene in this state.

35 (3) Provide assistance as may be requested by the bureau in the  
36 exercise of its powers or duties.

37 (c) The chief shall meet and consult with the Dental Hygiene  
38 Advisory Bureau regarding general policy issues related to dental  
39 hygiene.

40 1905. (a) The bureau shall perform the following functions:

1 (1) Evaluate all registered dental hygienist, registered dental  
2 hygienist in alternative practice, and registered dental hygienist in  
3 extended functions educational programs that apply for approval  
4 and granting or denying approval of those applications in  
5 accordance with regulations adopted by the bureau. Any such  
6 educational programs approved by the board on or before  
7 December 31, 2007, shall be deemed approved by the bureau.

8 (2) Withdraw or revoke its prior approval of a registered dental  
9 hygienist, registered dental hygienist in alternative practice, or  
10 registered dental hygienist in extended functions educational  
11 program in accordance with regulations adopted by the bureau.

12 (3) Review and evaluate all registered dental hygienist,  
13 registered dental hygienist in alternative practice, and registered  
14 dental hygienist in extended functions applications for licensure  
15 to ascertain whether the applicant meets the appropriate licensing  
16 requirements specified by statute and bureau regulations, maintain  
17 application records, cashier application fees, issue and renew  
18 licenses, and perform any other tasks that are incidental to the  
19 application and licensure processes.

20 (4) Determine the appropriate type of license examination  
21 consistent with the provisions of this article, and develop or cause  
22 to be developed and administer examinations in accordance with  
23 regulations adopted by the bureau.

24 (5) Determine the amount of fees assessed under this article.

25 (6) Determine and enforce the continuing education  
26 requirements specified in this article.

27 (7) Deny, suspend, or revoke a license under this article, or  
28 otherwise enforce the provisions of this article. Any such  
29 proceedings shall be conducted in accordance with Chapter 5  
30 (commencing with Section 11500) of Part 1 of Division 3 of Title  
31 2 of the Government Code, and the bureau shall have all of the  
32 powers granted therein.

33 (8) Adopt rules and regulations to implement the provisions of  
34 this article, including the required amount of supervision by a  
35 licensed dentist of a registered dental hygienist, registered dental  
36 hygienist in alternative practice, and registered dental hygienist in  
37 extended functions.

38 (b) The bureau may employ employees and examiners that it  
39 deems necessary to carry out its functions and responsibilities  
40 under this article.

1 1905.1. Until January 1, 2009, the bureau may contract with  
2 the dental board, or with the Committee on Dental Assistants, to  
3 carry out any of the provisions of this article. On and after January  
4 1, 2009, the bureau may contract with the dental board to perform  
5 investigations of applicants and licensees under this article.

6 1906. (a) The bureau shall adopt regulations to implement the  
7 requirements of this article.

8 (b) All regulations adopted by the bureau shall comply with the  
9 provisions of Chapter 3.5 (commencing with Section 11340) of  
10 Part 1 of Division 3 of Title 2 of the Government Code.

11 (c) No regulation adopted by the bureau shall impose a  
12 requirement or a prohibition directly upon a licensed dentist or on  
13 the administration of a dental office, unless specifically authorized  
14 by this article.

15 (d) Unless contrary to the provisions of this article, regulations  
16 adopted by the dental board shall continue to apply to registered  
17 dental hygienists, registered dental hygienists in alternative  
18 practice, and registered dental hygienists in extended functions  
19 until other regulations are adopted by the bureau. All references  
20 in those regulations to “board” shall mean the California Dental  
21 Hygiene Bureau, which shall solely enforce the regulations with  
22 respect to registered dental hygienists, registered dental hygienists  
23 in alternative practice, and registered dental hygienists in extended  
24 functions.

25 1907. The following functions may be performed by a  
26 registered dental hygienist in addition to those authorized pursuant  
27 to Sections 1908 to 1914, inclusive:

28 (a) All functions that may be performed by a registered dental  
29 assistant.

30 (b) All persons holding a license as a registered dental hygienist  
31 before January 1, 2008, are authorized to perform the duties of a  
32 registered dental assistant specified in this chapter. All persons  
33 issued a license as a registered dental hygienist on or after January  
34 1, 2008, shall qualify for and receive a registered dental assistant  
35 license prior to performance of the duties specified in this chapter.

36 1908. (a) The practice of dental hygiene includes dental  
37 hygiene assessment and development, planning, and  
38 implementation of a dental hygiene care plan. It also includes oral  
39 health education, counseling, and health screenings.



(b) The practice of dental hygiene does not include any of the following procedures:

- (1) Diagnosis and comprehensive treatment planning.
- (2) Placing, condensing, carving, or removal of permanent restorations.
- (3) Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.
- (4) Prescribing medication.

(5) Administering local or general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other, or local anesthesia pursuant to Section 1909.

1909. A registered dental hygienist is authorized to perform the following procedures under direct supervision, after submitting to the bureau evidence of satisfactory completion of a bureau-approved course of instruction in the procedures:

- (a) Soft-tissue curettage.
- (b) Administration of local anesthesia.
- (c) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.

1910. A registered dental hygienist is authorized to perform the following procedures under general supervision:

- (a) Preventive and therapeutic interventions, including oral prophylaxis, scaling, and root planing.
- (b) Application of topical, therapeutic, and subgingival agents used for the control of caries and periodontal disease.
- (c) The taking of impressions for bleaching trays and application and activation of agents with nonlaser, light-curing devices.
- (d) The taking of impressions for bleaching trays and placements of in-office, tooth-whitening devices.

1911. (a) A registered dental hygienist may provide, without supervision, educational services, oral health training programs, and oral health screenings.

(b) A registered dental hygienist shall refer any screened patients with possible oral abnormalities to a dentist for a comprehensive examination, diagnosis, and treatment plan.

(c) In any public health program created by federal, state, or local law or administered by a federal, state, county, or local

1 governmental entity, a registered dental hygienist may provide,  
2 without supervision, dental hygiene preventive services in addition  
3 to oral screenings, including, but not limited to, the application of  
4 fluorides and pit and fissure sealants.

5 1912. Any procedure performed or service provided by a  
6 registered dental hygienist that does not specifically require direct  
7 supervision shall require general supervision, so long as it does  
8 not give rise to a situation in the dentist's office requiring  
9 immediate services for alleviation of severe pain, or immediate  
10 diagnosis and treatment of unforeseeable dental conditions that,  
11 if not immediately diagnosed and treated, would lead to serious  
12 disability or death.

13 1913. Unless otherwise specified in this chapter, a registered  
14 dental hygienist may perform any procedure or provide any service  
15 within the scope of his or her practice in any setting, so long as  
16 the procedure is performed or the service is provided under the  
17 appropriate level of supervision required by this article.

18 1914. A registered dental hygienist may use any material or  
19 device approved for use in the performance of a service or  
20 procedure within his or her scope of practice under the appropriate  
21 level of supervision, if he or she has the appropriate education and  
22 training required to use the material or device.

23 1915. No person other than a registered dental hygienist or a  
24 licensed dentist may engage in the practice of dental hygiene or  
25 perform dental hygiene procedures on patients, including, but not  
26 limited to, supragingival and subgingival scaling, dental hygiene  
27 assessment, and treatment planning, except for the following  
28 persons:

29 (a) A student enrolled in a dental or a dental hygiene school  
30 who is performing procedures as part of the regular curriculum of  
31 that program under the supervision of the faculty of that program.

32 (b) A dental assistant acting in accordance with the rules of the  
33 board in performing the following procedures:

34 (1) Applying nonaerosol and noncaustic topical agents.

35 (2) Applying topical fluoride.

36 (3) Taking impression for bleaching trays.

37 (c) A registered dental assistant acting in accordance with the  
38 rules of the board in performing the following procedures:

39 (1) Polishing the coronal surfaces of teeth.

40 (2) Applying bleaching agents.

1 (3) Activating bleaching agents with a nonlaser light-curing  
2 device.

3 (4) Applying pit and fissure sealant.

4 (d) A registered dental assistant in extended functions acting in  
5 accordance with the rules of the board in applying pit and fissure  
6 sealants.

7 (e) A registered dental hygienist licensed in another jurisdiction  
8 performing a clinical demonstration for educational purposes.

9 1916. (a) An applicant for licensure under this article shall  
10 furnish fingerprint images for submission to state and federal  
11 criminal justice agencies, including, but not limited to, the Federal  
12 Bureau of Investigation, in order to establish the identity of the  
13 applicant and for the other purposes described in this section.

14 (b) The bureau shall submit the fingerprint images to the  
15 Department of Justice for the purposes of obtaining criminal  
16 offender record information regarding state and federal level  
17 convictions and arrests, including arrests for which the Department  
18 of Justice establishes that the person is free on bail or on his or her  
19 own recognizance pending trial or appeal.

20 (c) When received, the Department of Justice shall forward to  
21 the Federal Bureau of Investigation requests for federal summary  
22 criminal history information received pursuant to this section. The  
23 Department of Justice shall review the information returned from  
24 the Federal Bureau of Investigation and compile and disseminate  
25 response to the bureau.

26 (d) The Department of Justice shall provide a response to the  
27 bureau pursuant to subdivision (p) of Section 11105 of the Penal  
28 Code.

29 (e) The bureau shall request from the Department of Justice  
30 subsequent arrest notification service, as provided pursuant to  
31 Section 11105.2 of the Penal Code.

32 (f) The information obtained as a result of the fingerprinting  
33 shall be used in accordance with Section 11105 of the Penal Code,  
34 and to determine whether the applicant is subject to denial of  
35 licensure pursuant to Division 1.5 (commencing with Section 475),  
36 or Section 1628.5.

37 (g) The Department of Justice shall charge a fee sufficient to  
38 cover the cost of processing the request described in this section.

39 1917. The bureau shall license as a registered dental hygienist  
40 a person who satisfies all of the following requirements:

1 (a) Completion of an educational program for registered dental  
2 hygienists, approved by the bureau, accredited by the Commission  
3 on Dental Accreditation, and conducted by a degree-granting,  
4 postsecondary institution.

5 (b) Satisfactory performance on a clinical examination and an  
6 examination in California law and ethics as prescribed by the  
7 bureau.

8 (c) Satisfactory completion of a national written dental hygiene  
9 examination approved by the bureau.

10 1917.1. (a) The bureau may grant a license as a registered  
11 dental hygienist to an applicant who has not taken a clinical  
12 examination before the bureau, if the applicant submits all of the  
13 following to the bureau:

14 (1) A completed application form and all fees required by the  
15 bureau.

16 (2) Proof of a current license as a registered dental hygienist  
17 issued by another state that is not revoked, suspended, or otherwise  
18 restricted.

19 (3) Proof that the applicant has been in clinical practice as a  
20 registered dental hygienist or has been a full-time faculty member  
21 in an accredited dental hygiene education program for a minimum  
22 of 750 hours per year for at least five years preceding the date of  
23 his or her application under this section. The clinical practice  
24 requirement shall be deemed met if the applicant provides proof  
25 of at least three years of clinical practice and commits to  
26 completing the remaining two years of clinical practice by filing  
27 with the bureau a copy of a pending contract to practice dental  
28 hygiene in any of the following facilities:

29 (A) A primary care clinic licensed under subdivision (a) of  
30 Section 1204 of the Health and Safety Code.

31 (B) A primary care clinic exempt from licensure pursuant to  
32 subdivision (c) of Section 1206 of the Health and Safety Code.

33 (C) A clinic owned or operated by a public hospital or health  
34 system.

35 (D) A clinic owned and operated by a hospital that maintains  
36 the primary contract with a county government to fill the county's  
37 role under Section 17000 of the Welfare and Institutions Code.

38 (4) Satisfactory performance on a California law and ethics  
39 examination and any examination that may be required by the  
40 bureau.

1 (5) Proof that the applicant has not been subject to disciplinary  
2 action by any state in which he or she is or has been previously  
3 licensed as a registered dental hygienist or dentist. If the applicant  
4 has been subject to disciplinary action, the bureau shall review  
5 that action to determine if it warrants refusal to issue a license to  
6 the applicant.

7 (6) Proof of graduation from a school of dental hygiene  
8 accredited by the Commission on Dental Accreditation.

9 (7) Proof of satisfactory completion of the Dental Hygiene  
10 National Board Examination and of a state or regional clinical  
11 licensure examination.

12 (8) Proof that the applicant has not failed the examination for  
13 licensure to practice dental hygiene under this chapter more than  
14 once or once within five years prior to the date of his or her  
15 application for a license under this section.

16 (9) Documentation of completion of a minimum of 25 units of  
17 continuing education earned in the two years preceding application,  
18 including completion of any continuing education requirements  
19 imposed by the bureau on registered dental hygienists licensed in  
20 this state at the time of application.

21 (10) Any other information as specified by the bureau to the  
22 extent that it is required of applicants for licensure by examination  
23 under this article.

24 (b) The bureau may periodically request verification of  
25 compliance with the requirements of paragraph (3) of subdivision  
26 (a), and may revoke the license upon a finding that the employment  
27 requirement or any other requirement of paragraph (3) of  
28 subdivision (a) has not been met.

29 (c) The bureau shall provide in the application packet to each  
30 out-of-state dental hygienist pursuant to this section the following  
31 information:

32 (1) The location of dental manpower shortage areas in the state.

33 (2) Any not-for-profit clinics, public hospitals, and accredited  
34 dental hygiene education programs seeking to contract with  
35 licensees for dental hygiene service delivery or training purposes.

36 (d) The bureau shall review the impact of this section on the  
37 availability of actively practicing registered dental hygienists in  
38 California and report to the appropriate policy and fiscal  
39 committees of the Legislature by January 1, 2012. The report shall  
40 include a separate section providing data specific to registered

1 dental hygienists who intend to fulfill the alternative clinical  
2 practice requirements of subdivision (a). The report shall include,  
3 but shall not be limited to, the following:

4 (1) The number of applicants from other states who have sought  
5 licensure.

6 (2) The number of registered dental hygienists from other states  
7 licensed pursuant to this section, the number of licenses not  
8 granted, and the reason why the license was not granted.

9 (3) The practice location of registered dental hygienists licensed  
10 pursuant to this section. In identifying a registered dental  
11 hygienist's location of practice, the bureau shall use medical service  
12 study areas or other appropriate geographic descriptions for regions  
13 of the state.

14 (4) The number of registered dental hygienists licensed pursuant  
15 to this section who establish a practice in a rural area or in an area  
16 designated as having a shortage of practicing registered dental  
17 hygienists or no registered dental hygienists or in a safety net  
18 facility identified in paragraph (3) of subdivision (a).

19 (5) The length of time registered dental hygienists licensed  
20 pursuant to this section practiced in the reported location.

21 1917.2. (a) The bureau shall license as a registered dental  
22 hygienist a third- or fourth-year dental student who is in good  
23 standing at an accredited California dental school and who satisfies  
24 the following requirements:

25 (1) Satisfactorily performs on a clinical examination and an  
26 examination in California law and ethics as prescribed by the  
27 bureau.

28 (2) Satisfactorily completes a national written dental hygiene  
29 examination approved by the bureau.

30 (b) A dental student who is granted a registered dental hygienist  
31 license pursuant to this section may only practice in a dental  
32 practice that serves patients who are insured under Denti-Cal, the  
33 Healthy Families Program, or other government programs, or a  
34 dental practice that has a sliding scale fee system based on income.

35 (c) Upon receipt of a license to practice dentistry pursuant to  
36 Section 1634, a registered dental hygienist license issued pursuant  
37 to this subdivision is automatically revoked.

38 (d) The dental hygienist license is granted for two years upon  
39 passage of the dental hygiene examination, without the ability for  
40 renewal.

1 (e) Notwithstanding subdivision (d), if a dental student fails to  
2 remain in good standing at an accredited California dental school,  
3 or fails to graduate from the dental program, a registered dental  
4 hygienist license issued pursuant to this section shall be revoked.  
5 The student shall be responsible for submitting appropriate  
6 verifying documentation to the bureau.

7 (f) The provisions of this section shall be reviewed pursuant to  
8 Division 1.2 (commencing with Section 473). However, the review  
9 shall be limited to the fiscal feasibility and impact on the bureau.

10 (g) This section shall become inoperative as of January 1, 2010.  
11 1918. The bureau shall license as a registered dental hygienist  
12 in extended functions a person who meets all of the following  
13 requirements:

14 (a) Holds a current license as a registered dental hygienist in  
15 California.

16 (b) Completes clinical training approved by the bureau in a  
17 facility affiliated with a dental school under the direct supervision  
18 of the dental school faculty.

19 (c) Performs satisfactorily on an examination required by the  
20 bureau.

21 1919. The bureau shall adopt regulations necessary to define  
22 the functions that may be performed by registered dental hygienists  
23 in extended functions, whether the functions require direct or  
24 general supervision, and the settings within which registered dental  
25 hygienists in extended functions may work.

26 1920. (a) A person who holds a current and active license as  
27 a registered dental hygienist in extended functions or a registered  
28 dental hygienist in alternative practice on January 1, 2008, shall  
29 automatically be issued a license as a registered dental hygienist,  
30 unless the person holds a current and active registered dental  
31 hygienist license.

32 (b) A registered dental hygienist license issued pursuant to this  
33 section shall expire on the same date as the person's registered  
34 dental hygienist, registered dental hygienist in alternative practice,  
35 or registered dental hygienist in extended functions license, and  
36 shall be subject to the same renewal and other requirements  
37 imposed by law or regulation on a license.

38 1922. The bureau shall license as a registered dental hygienist  
39 in alternative practice a person who demonstrates satisfactory  
40 performance on an examination in California law and ethics

1 required by the bureau and who meets either of the following  
2 requirements:

3 (a) Holds a current California license as a registered dental  
4 hygienist and meets the following requirements:

5 (1) Has been engaged in the practice of dental hygiene, as  
6 defined in Section 1908, as a registered dental hygienist in any  
7 setting, including, but not limited to, educational settings and public  
8 health settings, for a minimum of 2,000 hours during the  
9 immediately preceding 36 months.

10 (2) Has successfully completed a bachelor's degree or its  
11 equivalent from a college or institution of higher education that is  
12 accredited by a national agency recognized by the Council on  
13 Postsecondary Accreditation or the United States Department of  
14 Education, and a minimum of 150 hours of additional educational  
15 requirements, as prescribed by the bureau by regulation, that are  
16 consistent with good dental and dental hygiene practice, including,  
17 but not necessarily limited to, dental hygiene technique and theory  
18 including gerontology and medical emergencies, and business  
19 administration and practice management.

20 (b) Has received a letter of acceptance into the employment  
21 utilization phase of the Health Manpower Pilot Project No. 155  
22 established by the Office of Statewide Health Planning and  
23 Development pursuant to Article 1 (commencing with Section  
24 128125) of Chapter 3 of Part 3 of Division 107 of the Health and  
25 Safety Code.

26 1924. A person licensed as a registered dental hygienist who  
27 has completed the prescribed classes through the Health Manpower  
28 Pilot Project (HMPP) and who has established an independent  
29 practice under the HMPP by June 30, 1997, shall be deemed to  
30 have satisfied the licensing requirements under Section 1922, and  
31 shall be authorized to continue to operate the practice he or she  
32 presently operates, so long as he or she follows the requirements  
33 for prescription and functions as specified in Sections 1922, 1925,  
34 1926, 1927, 1928, 1930, and 1931, and subdivision (b) of Section  
35 1929, and as long as he or she continues to personally practice and  
36 operate the practice or until he or she sells the practice to a licensed  
37 dentist.

38 1925. A registered dental hygienist in alternative practice may  
39 practice, pursuant to Sections 1922, 1923, and 1924, as an  
40 employee of a dentist or of another registered dental hygienist in



1 alternative practice, as an independent contractor, as a sole  
2 proprietor of an alternative dental hygiene practice, as an employee  
3 of a primary care clinic or specialty clinic that is licensed pursuant  
4 to Section 1204 of the Health and Safety Code, as an employee of  
5 a primary care clinic exempt from licensure pursuant to subdivision  
6 (c) of Section 1206 of the Health and Safety Code, as an employee  
7 of a clinic owned or operated by a public hospital or health system,  
8 or as an employee of a clinic owned and operated by a hospital  
9 that maintains the primary contract with a county government to  
10 fill the county's role under Section 17000 of the Welfare and  
11 Institutions Code.

12 1926. A registered dental hygienist in alternative practice may  
13 perform the duties authorized pursuant to Sections 1922, 1923,  
14 and 1924 in the following settings:

- 15 (a) Residences of the homebound.
- 16 (b) Schools.
- 17 (c) Residential facilities and other institutions.
- 18 (d) Dental health professional shortage areas, as certified by the  
19 Office of Statewide Health Planning and Development in  
20 accordance with existing office guidelines.

21 1927. A registered dental hygienist in alternative practice shall  
22 not do any of the following:

- 23 (a) Infer, purport, advertise, or imply that he or she is in any  
24 way able to provide dental services or make any type of dental  
25 health diagnosis beyond evaluating a patient's dental hygiene  
26 status, providing a dental hygiene treatment plan, and providing  
27 the associated dental hygiene services.
- 28 (b) Hire a registered dental hygienist to provide direct patient  
29 services other than a registered dental hygienist in alternative  
30 practice.

31 1928. A registered dental hygienist in alternative practice may  
32 submit or allow to be submitted any insurance or third-party claims  
33 for patient services performed as authorized pursuant to this article.

34 1929. (a) A registered dental hygienist in alternative practice  
35 may hire other registered dental hygienists in alternative practice  
36 to assist in his or her practice.

37 (b) A registered dental hygienist in alternative practice may hire  
38 and supervise dental assistants performing intraoral retraction and  
39 suctioning.

1 1930. A registered dental hygienist in alternative practice shall  
2 provide to the bureau documentation of an existing relationship  
3 with at least one dentist for referral, consultation, and emergency  
4 services.

5 1931. (a) A registered dental hygienist in alternative practice  
6 may perform dental hygiene services for a patient who presents to  
7 the registered hygienist in alternative practice a written prescription  
8 for dental hygiene services issued by a dentist or physician and  
9 surgeon licensed to practice in this state who has performed a  
10 physical examination and a diagnosis of the patient prior to the  
11 prescription being provided. The prescription shall be valid for a  
12 time period based on the dentist's or physician and surgeon's  
13 professional judgment, but not to exceed 15 months from the date  
14 that it was issued.

15 (b) The bureau shall seek to obtain an injunction against any  
16 registered dental hygienist in alternative practice who provides  
17 services pursuant to this section, if the bureau has reasonable cause  
18 to believe that the services are being provided to a patient who has  
19 not received a prescription for those services from a dentist or  
20 physician and surgeon licensed to practice in this state.

21 1932. (a) The bureau may, in its sole discretion, issue a  
22 probationary license to an applicant who has satisfied all  
23 requirements for licensure as a registered dental hygienist, a  
24 registered dental hygienist in alternative practice, or a registered  
25 dental hygienist in extended functions. The bureau may require,  
26 as a term or condition of issuing the probationary license, that the  
27 applicant comply with certain additional requirements, including,  
28 but not limited to, the following:

29 (1) Successfully completing a professional competency  
30 examination.

31 (2) Submitting to a medical or psychological evaluation.

32 (3) Submitting to continuing medical or psychological treatment.

33 (4) Abstaining from the use of alcohol or drugs.

34 (5) Submitting to random fluid testing for alcohol or controlled  
35 substance abuse.

36 (6) Submitting to continuing participation in a bureau-approved  
37 rehabilitation program.

38 (7) Restricting the type or circumstances of practice.

39 (8) Submitting to continuing education and coursework.

1 (9) Complying with requirements regarding notifying the bureau  
2 of any change of employer or employment.

3 (10) Complying with probation monitoring.

4 (11) Complying with all laws and regulations governing the  
5 practice of dentistry.

6 (12) Limiting his or her practice to a supervised, structured  
7 environment in which his or her activities are supervised by a  
8 specified person.

9 (b) The term of a probationary license is three years. During  
10 the term of the license, the licensee may petition the bureau for a  
11 modification of a term or condition of the license or for the issuance  
12 of a license that is not probationary.

13 (c) The proceedings under this section shall be conducted in  
14 accordance with Chapter 5 (commencing with Section 11500) of  
15 Part 1 of Division 3 of Title 2 of the Government Code, and the  
16 bureau shall have all the powers granted in that chapter.

17 1933. A licensee shall be issued a substitute license upon  
18 request and payment of the required fee. The request shall be  
19 accompanied by an affidavit or declaration containing satisfactory  
20 evidence of the loss or destruction of the license certificate.

21 1934. A licensee who changes his or her address of record shall  
22 notify the bureau within 30 days of the change. A licensee who  
23 changes his or her legal name shall provide the bureau with  
24 documentation of the change within 10 days.

25 1935. If not renewed, a license issued under the provisions of  
26 this article, unless specifically excepted, expires at 12 midnight  
27 on the last day of the month of the legal birth date of the licensee  
28 during the second year of a two-year term. To renew an unexpired  
29 license, the licensee shall, before the time at which the license  
30 would otherwise expire, apply for renewal on a form prescribed  
31 by the bureau and pay the renewal fee prescribed by this article.

32 1936. Except as otherwise provided in this article, an expired  
33 license may be renewed at any time within five years after its  
34 expiration by filing an application for renewal on a form prescribed  
35 by the bureau and payment of all accrued renewal and delinquency  
36 fees. If the license is renewed after its expiration, the licensee, as  
37 a condition precedent to renewal, shall also pay the delinquency  
38 fee prescribed by this article. Renewal under this section shall be  
39 effective on the date on which the application is filed, on the date  
40 on which the renewal fee is paid, or on the date on which the

1 delinquency fee, if any, is paid, whichever last occurs. If so  
2 renewed, the license shall continue in effect until the expiration  
3 date provided in Section 1935 that next occurs after the effective  
4 date of the renewal.

5 1936.1. (a) If the bureau determines that the public health and  
6 safety would be served by requiring all holders of licenses under  
7 this article to continue their education after receiving a license,  
8 the bureau may require, as a condition to license renewal, that  
9 licensees submit assurances satisfactory to the bureau that they  
10 will, during the succeeding two-year period, inform themselves  
11 of the developments in the practice of dental hygiene occurring  
12 since the original issuance of their licenses by pursuing one or  
13 more courses of study satisfactory to the bureau, or by other means  
14 deemed equivalent by the bureau. The bureau shall adopt  
15 regulations providing for the suspension of the licenses at the end  
16 of the two-year period until compliance with the assurances  
17 provided for in this section is accomplished.

18 (b) The bureau may also, as a condition of license renewal,  
19 require licensees to successfully complete a portion of the required  
20 continuing education hours in specific areas adopted in regulations  
21 by the bureau. The bureau may prescribe this mandatory  
22 coursework within the general areas of patient care, health and  
23 safety, and law and ethics. The mandatory coursework prescribed  
24 by the bureau shall not exceed seven and one-half hours per  
25 renewal period. Any mandatory coursework required by the bureau  
26 shall be credited toward the continuing education requirements  
27 established by the bureau pursuant to subdivision (a).

28 (c) The providers of courses referred to in this section shall be  
29 approved by the bureau.

30 1937. A suspended license is subject to expiration and shall  
31 be renewed as provided in this article. The renewal does not entitle  
32 the licensee, while the license remains suspended and until it is  
33 reinstated, to engage in the licensed activity or in any other activity  
34 or conduct in violation of the order or judgment by which the  
35 license was suspended.

36 1938. A revoked license is subject to expiration as provided  
37 in this article. A revoked license may not be renewed. If it is  
38 reinstated after its expiration, the licensee, as a condition precedent  
39 to its reinstatement, shall pay a reinstatement fee in an amount  
40 equal to the renewal fee in effect on the last regular renewal date

1 before the date on which it is reinstated and the delinquency fee,  
2 if any, accrued at the time of its revocation.

3 1939. A license that is not renewed within five years after its  
4 expiration may not be renewed, restored, reinstated, or reissued.  
5 The holder of the license may apply for and obtain a new license  
6 upon meeting all of the requirements of a new applicant prescribed  
7 in this article.

8 1940. (a) A licensee who desires an inactive license shall  
9 submit an application to the bureau on a form provided by the  
10 bureau.

11 (b) In order to restore an inactive license to active status, the  
12 licensee shall submit an application to the bureau on a form  
13 provided by the bureau, accompanied by evidence that the licensee  
14 has completed the required number of hours of approved continuing  
15 education in compliance with this article within the last two years  
16 preceding the date of the application.

17 (c) The holder of an inactive license shall continue to pay to the  
18 bureau the required biennial renewal fee.

19 (d) Within 30 days of receiving a request either to restore an  
20 inactive license or to inactivate a license, the bureau shall inform  
21 the applicant in writing whether the application is complete and  
22 accepted for filing or is deficient and, if so, the specific information  
23 required to complete the application.

24 1941. It is the intent of the bureau to grant and to renew  
25 approval of only those educational programs for a registered dental  
26 hygienist, a registered dental hygienist in alternative practice, and  
27 a registered dental hygienist in extended functions that continuously  
28 maintain a high quality standard of instruction.

29 1943. (a) The bureau may deny an application to take an  
30 examination for licensure as a registered dental hygienist, a  
31 registered dental hygienist in alternative practice, or a registered  
32 dental hygienist in extended functions at any time prior to licensure  
33 for any of the following reasons:

34 (1) The applicant committed an act that is a ground for license  
35 suspension or revocation under this code or that is a ground for  
36 the denial of licensure under Section 480.

37 (2) The applicant committed or aided and abetted the  
38 commission of any act for which a license is required under this  
39 chapter.

1 (3) Another state or territory suspended or revoked the license  
2 that it had issued to the applicant on a ground that constitutes a  
3 basis in this state for the suspension or revocation of licensure  
4 under this article.

5 (b) The proceedings under this section shall be conducted in  
6 accordance with Chapter 5 (commencing with Section 11500) of  
7 Part 1 of Division 3 of Title 2 of the Government Code, and the  
8 bureau shall have all of the powers granted therein.

9 1944. (a) The bureau shall establish by resolution the amount  
10 of the fees that relate to the licensing of a registered dental  
11 hygienist, a registered dental hygienist in alternative practice, and  
12 a registered dental hygienist in extended functions. The fees are  
13 subject to the following limitations:

14 (1) The application fee for an original license shall not exceed  
15 twenty dollars (\$20).

16 (2) The fee for examination for licensure as a registered dental  
17 hygienist shall not exceed two hundred twenty dollars (\$220).

18 (3) For third- and fourth-year dental students, the fee for  
19 examination for licensure as a registered dental hygienist shall not  
20 exceed the actual cost of the examination.

21 (4) The fee for examination for licensure as a registered dental  
22 hygienist in extended functions shall not exceed two hundred fifty  
23 dollars (\$250).

24 (5) The fee for examination for licensure as a registered dental  
25 hygienist in alternative practice shall not exceed the actual cost of  
26 administering the examination.

27 (6) The biennial renewal fee shall not exceed eighty dollars  
28 (\$80).

29 (7) The delinquency fee shall not exceed twenty-five dollars  
30 (\$25) or one-half of the renewal fee, whichever is greater. Any  
31 delinquent license may be restored only upon payment of all fees,  
32 including the delinquency fee, and compliance with all other  
33 applicable requirements of this article.

34 (8) The fee for issuance of a duplicate license to replace one  
35 that is lost or destroyed, or in the event of a name change, shall  
36 not exceed twenty-five dollars (\$25) or one-half of the renewal  
37 fee, whichever is greater.

38 (9) The fee for each curriculum review and site evaluation for  
39 educational programs for dental hygienists that are not accredited  
40 by a bureau-approved agency, the Council for Private

1 Postsecondary and Vocational Education, or the Chancellor's office  
2 of the California Community Colleges shall not exceed one  
3 thousand four hundred dollars (\$1,400).

4 (10) The fee for each review of courses required for licensure  
5 that are not accredited by a bureau-approved agency, the Council  
6 for Private Postsecondary and Vocational Education, or the  
7 Chancellor's office of the California Community Colleges shall  
8 not exceed three hundred dollars (\$300).

9 (11) The fee for a provider of continuing education shall not  
10 exceed five hundred dollars (\$500) per year.

11 (12) The amount of fees payable in connection with permits  
12 issued under Section 1962 is as follows:

13 (A) The initial permit fee is an amount equal to the renewal fee  
14 for the applicant's license to practice dental hygiene in effect on  
15 the last regular renewal date before the date on which the permit  
16 is issued.

17 (B) If the permit will expire less than one year after its issuance,  
18 then the initial permit fee is an amount equal to 50 percent of the  
19 renewal fee in effect on the last regular renewal date before the  
20 date on which the permit is issued.

21 (b) The renewal and delinquency fees shall be fixed by the  
22 bureau at not more than the current amount of the renewal fee for  
23 a license to practice under this chapter nor less than five dollars  
24 (\$5).

25 (c) Fees fixed by the bureau pursuant to this section shall not  
26 be subject to the approval of the Office of Administrative Law.

27 (d) Fees collected pursuant to this section shall be collected by  
28 the bureau and deposited into the State Dental Hygiene Fund,  
29 which is hereby created. All money in this fund shall be used to  
30 implement the provisions of this article.

31 (e) No fees or charges other than those listed in this section shall  
32 be levied by the bureau in connection with the licensure of  
33 registered dental hygienists, registered dental hygienists in  
34 alternative practice, or registered dental hygienists in extended  
35 functions.

36 1945. On January 1, 2008, a percentage of the funds in the  
37 State Dental Assistant Fund shall be transferred to the State Dental  
38 Hygiene Fund based on the number of registered dental hygienists,  
39 registered dental hygienists in alternative practice, and registered  
40 dental hygienists in extended functions licensed on January 1,

1 2008, compared to all dental auxiliaries licensed by the Committee  
2 on Dental Auxiliaries on January 1, 2008.

3 1947. A license issued under this article and a license issued  
4 under this chapter to a registered dental hygienist, to a registered  
5 dental hygienist in alternative practice, or to a registered dental  
6 hygienist in extended functions may be revoked or suspended by  
7 the bureau for any reason specified in this chapter for the  
8 suspension or revocation of a license to practice dental hygiene.

9 1949. A licensee may have his or her license revoked or  
10 suspended, or may be reprimanded or placed on probation by the  
11 bureau for unprofessional conduct, incompetence, gross negligence,  
12 repeated acts of negligence in his or her profession, receiving a  
13 license by mistake, or for any other cause applicable to the  
14 licensee provided in this chapter. The proceedings under this  
15 article shall be conducted in accordance with Chapter 5  
16 (commencing with Section 11500) of Part 1 of Division 3 of Title  
17 2 of the Government Code, and the bureau shall have all the powers  
18 granted therein.

19 1950. (a) A licensee may have his or her license revoked or  
20 suspended, or may be reprimanded or placed on probation by the  
21 bureau, for conviction of a crime substantially related to the  
22 licensee's qualifications, functions, or duties. The record of  
23 conviction or a copy certified by the clerk of the court or by the  
24 judge in whose court the conviction is had, shall be conclusive  
25 evidence of conviction.

26 (b) The bureau shall undertake proceedings under this section  
27 upon the receipt of a certified copy of the record of conviction. A  
28 plea or verdict of guilty or a conviction following a plea of nolo  
29 contendere made to a charge of a felony or of any misdemeanor  
30 substantially related to the licensee's qualifications, functions, or  
31 duties is deemed to be a conviction within the meaning of this  
32 section.

33 (c) The bureau may order a license suspended or revoked, or  
34 may decline to issue a license when any of the following occur:

- 35 (1) The time for appeal has elapsed.  
36 (2) The judgment of conviction has been affirmed on appeal.  
37 (3) An order granting probation is made suspending the  
38 imposition of sentence, irrespective of a subsequent order under  
39 any provision of the Penal Code, including, but not limited to,  
40 Section 1203.4 of the Penal Code, allowing a person to withdraw



1 his or her plea of guilty and to enter a plea of not guilty, or setting  
2 aside the verdict of guilty, or dismissing the accusation, information  
3 or indictment.

4 1951. The bureau may discipline a licensee by placing him or  
5 her on probation under various terms and conditions that may  
6 include, but are not limited to, the following:

7 (a) Requiring the licensee to obtain additional training or pass  
8 an examination upon completion of training, or both. The  
9 examination may be written or oral examinations, or both, and  
10 may be a practical or clinical examination, or both, at the option  
11 of the bureau.

12 (b) Requiring the licensee to submit to a complete diagnostic  
13 examination by one or more physicians appointed by the bureau,  
14 if warranted by the physical or mental condition of the licensee.  
15 If the bureau requires the licensee to submit to an examination,  
16 the bureau shall receive and consider any other report of a complete  
17 diagnostic examination given by one or more physicians of the  
18 licensee's choice.

19 (c) Restricting or limiting the extent, scope, or type of practice  
20 of the licensee.

21 (d) Requiring restitution of fees to the licensee's patients or  
22 payers of services unless restitution has already been made.

23 (e) Providing the option of alternative community service in  
24 lieu of all or part of a period of suspension in cases other than  
25 violations relating to quality of care.

26 1952. It is unprofessional conduct for a person licensed under  
27 this article to do any of the following:

28 (a) Obtain or possess in violation of law, or except as directed  
29 by a licensed physician and surgeon, dentist, or podiatrist, a  
30 controlled substance, as defined in Division 10 (commencing with  
31 Section 11000) of the Health and Safety Code, or any dangerous  
32 drug as defined in Article 8 (commencing with Section 4211) of  
33 Chapter 9.

34 (b) Use a controlled substance, as defined in Division 10  
35 (commencing with Section 11000) of the Health and Safety Code,  
36 or a dangerous drug as defined in Article 8 (commencing with  
37 Section 4211) of Chapter 9, or alcoholic beverages or other  
38 intoxicating substances, to an extent or in a manner dangerous or  
39 injurious to himself or herself, any person, or the public to the

1 extent that the use impairs the licensee's ability to conduct with  
2 safety to the public the practice authorized by his or her license.

3 (c) By convicted of a charge of violating any federal statute or  
4 rules, or any statute or rule of this state, regulating controlled  
5 substances, as defined in Division 10 (commencing with Section  
6 11000) of the Health and Safety Code, or any dangerous drug, as  
7 defined in Article 8 (commencing with Section 4211) of Chapter  
8 9, or be convicted of more than one misdemeanor, or any felony,  
9 involving the use or consumption of alcohol or drugs, if the  
10 conviction is substantially related to the practice authorized by his  
11 or her license. The record of conviction or a copy certified by the  
12 clerk of the court or by the judge in whose court the conviction is  
13 had, shall be conclusive evidence of a violation of this section. A  
14 plea or verdict of guilty or a conviction following a plea of nolo  
15 contendere is deemed to be a conviction within the meaning of  
16 this section; the bureau may order the license suspended or  
17 revoked, or may decline to issue a license, when the time for appeal  
18 has elapsed or the judgment of conviction has been affirmed on  
19 appeal, or when an order granting probation is made suspending  
20 imposition of sentence, irrespective of a subsequent order under  
21 any provision of the Penal Code, including, but not limited to,  
22 Section 1203.4 of the Penal Code, allowing a person to withdraw  
23 his or her plea of guilty and to enter a plea of not guilty, or setting  
24 aside the verdict of guilty, or dismissing the accusation, information  
25 or indictment.

26 1953. (a) A registered dental hygienist, registered dental  
27 hygienist in alternative practice, or registered dental hygienist in  
28 extended functions who performs a service on a patient in a dental  
29 office shall identify himself or herself in the patient record by  
30 signing his or her name or identification number and initials next  
31 to the service performed, and shall date those treatment entries in  
32 the record.

33 (b) A repeated violation of this section constitutes unprofessional  
34 conduct.

35 1954. (a) It is unprofessional conduct for a person licensed  
36 under this article to perform, or hold himself or herself out as able  
37 to perform, professional services beyond the scope of his or her  
38 license and field of competence, as established by his or her  
39 education, experience, and training. This includes, but is not limited  
40 to, using an instrument or device in a manner that is not in

1 accordance with the customary standards and practices of the dental  
2 hygiene profession.

3 (b) This section shall not apply to research conducted by  
4 accredited dental schools or dental hygiene schools, or to research  
5 conducted pursuant to an investigational device exemption issued  
6 by the United States Food and Drug Administration.

7 1955. (a) (1) A licensee who fails or refuses to comply with  
8 a request for a patient's dental hygiene records that is accompanied  
9 by that patient's written authorization for release of the records to  
10 the bureau, within 15 days of receiving the request and  
11 authorization, shall pay to the bureau a civil penalty of two hundred  
12 fifty dollars (\$250) per day for each day that the documents have  
13 not been produced after the 15th day, up to a maximum of five  
14 thousand dollars (\$5,000) unless the licensee is unable to provide  
15 the documents within this time period for good cause.

16 (2) A health care facility shall comply with a request for the  
17 dental hygiene records of a patient that is accompanied by that  
18 patient's written authorization for release of records to the bureau  
19 together with a notice citing this section and describing the  
20 penalties for failure to comply with this section. Failure to provide  
21 the authorizing patient's dental hygiene records to the board within  
22 30 days of receiving this request, authorization, and notice shall  
23 subject the health care facility to a civil penalty, payable to the  
24 bureau, of up to two hundred fifty dollars (\$250) per day for each  
25 day that the documents have not been produced after the 30th day,  
26 up to a maximum of five thousand dollars (\$5,000), unless the  
27 health care facility is unable to provide the documents within this  
28 time period for good cause. This paragraph shall not require health  
29 care facilities to assist the bureau in obtaining the patient's  
30 authorization. The bureau shall pay the reasonable cost of copying  
31 the dental hygiene records.

32 (b) (1) A licensee who fails or refuses to comply with a court  
33 order issued in the enforcement of a subpoena mandating the  
34 release of records to the bureau shall pay to the bureau a civil  
35 penalty of one thousand dollars (\$1,000) per day for each day that  
36 the documents have not been produced after the date by which the  
37 court order requires the documents to be produced, unless it is  
38 determined that the order is unlawful or invalid. Any statute of  
39 limitations applicable to the filing of an accusation by the bureau

1 shall be tolled during the period the licensee is out of compliance  
2 with the court order and during any related appeals.

3 (2) A licensee who fails or refuses to comply with a court order  
4 issued in the enforcement of a subpoena mandating the release of  
5 records to the bureau is guilty of a misdemeanor punishable by a  
6 fine payable to the bureau not to exceed five thousand dollars  
7 (\$5,000). The fine shall be added to the licensee's renewal fee if  
8 it is not paid by the next succeeding renewal date. Any statute of  
9 limitations applicable to the filing of an accusation by the bureau  
10 shall be tolled during the period the licensee is out of compliance  
11 with the court order and during any related appeals.

12 (3) A health care facility that fails or refuses to comply with a  
13 court order issued in the enforcement of a subpoena mandating  
14 the release of patient records to the bureau, that is accompanied  
15 by a notice citing this section and describing the penalties for  
16 failure to comply with this section, shall pay to the bureau a civil  
17 penalty of up to one thousand dollars (\$1,000) per day for each  
18 day that the documents have not been produced, up to ten thousand  
19 dollars (\$10,000), after the date by which the court order requires  
20 the documents to be produced, unless it is determined that the order  
21 is unlawful or invalid. Any statute of limitations applicable to the  
22 filing of an accusation by the bureau against a licensee shall be  
23 tolled during the period the health care facility is out of compliance  
24 with the court order and during any related appeals.

25 (4) A health care facility that fails or refuses to comply with a  
26 court order, issued in the enforcement of a subpoena, mandating  
27 the release of records to the bureau is guilty of a misdemeanor  
28 punishable by a fine payable to the bureau not to exceed five  
29 thousand dollars (\$5,000). Any statute of limitations applicable to  
30 the filing of an accusation by the bureau against a licensee shall  
31 be tolled during the period the health care facility is out of  
32 compliance with the court order and during any related appeals.

33 (c) Multiple acts by a licensee in violation of subdivision (b)  
34 shall be punishable by a fine not to exceed five thousand dollars  
35 (\$5,000) or by imprisonment in a county jail not exceeding six  
36 months, or by both that fine and imprisonment. Multiple acts by  
37 a health care facility in violation of subdivision (b) shall be  
38 punishable by a fine not to exceed five thousand dollars (\$5,000)  
39 and shall be reported to the State Department of Health Services  
40 and shall be considered as grounds for disciplinary action with

1 respect to licensure, including suspension or revocation of the  
2 license or certificate.

3 (d) A failure or refusal to comply with a court order issued in  
4 the enforcement of a subpoena mandating the release of records  
5 to the bureau constitutes unprofessional conduct and is grounds  
6 for suspension or revocation of his or her license.

7 (e) Imposition of the civil penalties authorized by this section  
8 shall be in accordance with the Administrative Procedure Act  
9 (Chapter 5 (commencing with Section 11500) of Division 3 of  
10 Title 2 of the Government Code).

11 (f) For the purposes of this section, a “health care facility” means  
12 a clinic or health care facility licensed or exempt from licensure  
13 pursuant to Division 2 (commencing with Section 1200) of the  
14 Health and Safety Code.

15 1956. It is unprofessional conduct for a person licensed under  
16 this article to require, either directly or through an office policy,  
17 or knowingly permit the delivery of dental hygiene care that  
18 discourages necessary treatment, or permits clearly excessive,  
19 incompetent, unnecessary, or grossly negligent treatment, or  
20 repeated negligent acts, as determined by the standard of practice  
21 in the community.

22 1957. (a) A person whose license has been revoked or  
23 suspended, who has been placed on probation, or whose license  
24 was surrendered pursuant to a stipulated settlement as a condition  
25 to avoid a disciplinary administrative hearing, may petition the  
26 bureau for reinstatement or modification of penalty, including  
27 modification or termination of probation, after a period of not less  
28 than the following minimum periods have elapsed from the  
29 effective date of the decision ordering disciplinary action:

30 (1) At least three years for reinstatement of a license revoked  
31 for unprofessional conduct or surrendered pursuant to a stipulated  
32 settlement as a condition to avoid an administrative disciplinary  
33 hearing.

34 (2) At least two years for early termination, or modification of  
35 a condition, of a probation of three years or more.

36 (3) At least one year for modification of a condition, or  
37 reinstatement of a license revoked for mental or physical illness,  
38 or termination, or modification of a condition, of a probation of  
39 less than three years.

40 (b) The petition shall state any fact required by the bureau.

1 (c) The petition may be heard by the bureau, or the bureau may  
2 assign the petition to an administrative law judge designated in  
3 Section 11371 of the Government Code.

4 (d) In considering reinstatement or modification or penalty, the  
5 bureau or the administrative law judge hearing the petition may  
6 consider the following:

7 (1) All activities of the petitioner since the disciplinary action  
8 was taken.

9 (2) The offense for which the petitioner was disciplined.

10 (3) The petitioner's activities during the time the license,  
11 certificate, or permit was in good standing.

12 (4) The petitioner's rehabilitative efforts, general reputation for  
13 truth, and professional ability.

14 (e) The hearing may be continued from time to time as the  
15 bureau or the administrative law judge as designated in Section  
16 11371 of the Government Code finds necessary.

17 (f) The bureau or the administrative law judge may impose  
18 necessary terms and conditions on the licensee in reinstating a  
19 license, certificate, or permit or modifying a penalty.

20 (g) A petition shall not be considered while the petitioner is  
21 under sentence for any criminal offense, including any period  
22 during which the petitioner is on court-imposed probation or parole.

23 (h) A petition shall not be considered while there is an  
24 accusation or petition to revoke probation pending against the  
25 person.

26 (i) The bureau may deny without a hearing or argument any  
27 petition filed pursuant to this section within a period of two years  
28 from the effective date of the prior decision following a hearing  
29 under this section. Nothing in this section shall be deemed to alter  
30 Sections 822 and 823.

31 1958. A person, company, or association is guilty of a  
32 misdemeanor, and upon conviction, shall be punished by  
33 imprisonment in a county jail not less than 10 days nor more than  
34 one year, or by a fine of not less than one hundred dollars  
35 (\$100) nor more than one thousand five hundred dollars (\$1,500),  
36 or by both fine and imprisonment, who does any of the following:

37 (a) Assumes the title of "registered dental hygienist," "registered  
38 dental hygienist in alternative practice" or "registered dental  
39 hygienist in extended functions" or appends the letters "R.D.H.,"  
40 "R.D.H.A.P." or "R.D.H.E.F." to his or her name without having

1 had the right to assume the title conferred upon him or her through  
2 licensure.

3 (b) Assumes any title, or appends any letters to his or her name,  
4 with the intent to represent falsely that he or she has received a  
5 dental hygiene degree or a license under this article.

6 (c) Engages in the practice of dental hygiene without causing  
7 to be displayed in a conspicuous place in his or her office his or  
8 her license under this article to practice dental hygiene.

9 (d) Within 10 days after demand is made by the executive officer  
10 of the bureau, fails to furnish to the bureau the name and address  
11 of all persons practicing or assisting in the practice of dental  
12 hygiene in the office of the person, company, or association, at  
13 any time within 60 days prior to the demand, together with a sworn  
14 statement showing under and by what license or authority this  
15 person, company, or association and any employees are or have  
16 been practicing or assisting in the practice of dental hygiene. This  
17 sworn statement shall not be used in any prosecution under this  
18 section.

19 (e) Is under the influence of alcohol or a controlled substance  
20 while engaged in the practice of dental hygiene in actual attendance  
21 on patients to an extent that impairs his or her ability to conduct  
22 the practice of dental hygiene with safety to patients and the public.

23 1959. A person who holds a valid, unrevoked, and unsuspended  
24 certificate as a registered dental hygienist, registered dental  
25 hygienist in alternative practice, or registered dental hygienist in  
26 extended functions under this article may append the letters  
27 “R.D.H.,” “R.D.H.A.P.,” or “R.D.H.E.F.” to his or her name.

28 1960. For the first offense, a person is guilty of a misdemeanor  
29 and shall be punishable by a fine of not less than two hundred  
30 dollars (\$200) or more than three thousand dollars (\$3,000), or by  
31 imprisonment in a county jail for not to exceed six months, or both,  
32 and for the second or a subsequent offense is guilty of a felony  
33 and upon conviction thereof shall be punished by a fine of not less  
34 than two thousand dollars (\$2,000) nor more than six thousand  
35 dollars (\$6,000), or by imprisonment in the state prison, or by both  
36 that fine and imprisonment, who does any of the following:

37 (a) Sells or barter or offers to sell or barter a dental hygiene  
38 degree or transcript or a license issued under, or purporting to be  
39 issued under, laws regulating licensure of dental hygienists.

1 (b) Purchases or procures by barter a diploma, license, or  
2 transcript with intent that it shall be used in evidence of the holder's  
3 qualification to practice dental hygiene, or in fraud of the laws  
4 regulating the practice of dental hygiene.

5 (c) With fraudulent intent, makes, attempts to make, counterfeits,  
6 or materially alters a diploma, certificate, or transcript.

7 (d) Uses, or attempts or causes to be used, any diploma,  
8 certificate, or transcript that has been purchased, fraudulently  
9 issued, counterfeited, or materially altered or in order to procure  
10 licensure as a registered dental hygienist, registered dental hygienist  
11 in alternative practice, or registered dental hygienist in extended  
12 functions.

13 (e) In an affidavit required of an applicant for an examination  
14 or license under this article, willfully makes a false statement in a  
15 material regard.

16 (f) Practices dental hygiene or offers to practice dental hygiene,  
17 as defined in this article, either without a license, or when his or  
18 her license has been revoked or suspended.

19 (g) Under any false, assumed or fictitious name, either as an  
20 individual, firm, corporation or otherwise, or any name other than  
21 the name under which he or she is licensed, practices, advertises,  
22 or in any other manner indicates that he or she practices or will  
23 practice dental hygiene, except a name specified in a valid permit  
24 issued pursuant to Section 1962.

25 1961. A person who willfully, under circumstances that cause  
26 risk of bodily harm, serious physical or mental illness, or death,  
27 practices, attempts to practice, advertises, or holds himself or  
28 herself out as practicing dental hygiene without having at the time  
29 of so doing a valid, unrevoked, and unsuspended license as  
30 provided in this chapter, is guilty of a crime, punishable by  
31 imprisonment in a county jail for up to one year. The remedy  
32 provided in this section shall not preclude any other remedy  
33 provided by law.

34 1962. (a) An association, partnership, corporation, or group  
35 of three or more registered dental hygienists, registered dental  
36 hygienists in alternative practice, or registered dental hygienists  
37 in extended functions engaging in practice under a name that would  
38 otherwise be in violation of Section 1960, may practice under that  
39 name if the association, partnership, corporation, or group holds



1 an unexpired, unsuspended, and unrevoked permit issued by the  
2 bureau under this section.

3 (b) An individual registered dental hygienist, registered dental  
4 hygienist in alternative practice, or registered dental hygienist in  
5 extended functions, or a pair of registered dental hygienists,  
6 registered dental hygienists in alternative practice, or registered  
7 dental hygienists in extended functions, who practice dental  
8 hygiene under a name that would otherwise violate Section 1960  
9 may practice under that name if the licensees hold a valid permit  
10 issued by the bureau under this section. The bureau shall issue a  
11 written permit authorizing the holder to use a name specified in  
12 the permit in connection with the holder's practice if the bureau  
13 finds all of the following:

14 (1) The applicant or applicants are duly licensed registered  
15 dental hygienists, registered dental hygienists in alternative  
16 practice, or registered dental hygienists in extended functions.

17 (2) The place where the applicant or applicants practice is owned  
18 or leased by the applicant or applicants, and the practice conducted  
19 at the place is wholly owned and entirely controlled by the  
20 applicant or applicants.

21 (3) The name under which the applicant or applicants propose  
22 to operate contains at least one of the following designations:  
23 "dental hygiene group," "dental hygiene practice," or "dental  
24 hygiene office," contains the family name of one or more of the  
25 past, present, or prospective associates, partners, shareholders, or  
26 members of the group, and is in conformity with Section 651 and  
27 not in violation of subdivisions (i) and (j) of Section 1680.

28 (4) All licensed persons practicing at the location designated in  
29 the application hold valid licenses and no charges of unprofessional  
30 conduct are pending against any person practicing at that location.

31 (c) A permit issued under this section shall expire and become  
32 invalid unless renewed in the manner provided for in this article  
33 for the renewal of certificates issued under this article.

34 (d) A permit issued under this section may be revoked or  
35 suspended if the bureau finds that any requirement for original  
36 issuance of a permit is no longer being fulfilled by the  
37 permitholder. Proceedings for revocation or suspension shall be  
38 governed by the Administrative Procedure Act.

39 (e) If charges of unprofessional conduct are filed against the  
40 holder of a permit issued under this section, or a member of an

1 association, partnership, group, or corporation to whom a permit  
2 has been issued under this section, proceedings shall not be  
3 commenced for revocation or suspension of the permit until a final  
4 determination of the charges of unprofessional conduct, unless the  
5 charges have resulted in revocation or suspension of a license.

6 1963. The bureau may prefer a complaint for violation of any  
7 part of this article before any court of competent jurisdiction and  
8 may, by its officers, counsel and agents, assist in presenting the  
9 law or facts at the trial. The district attorney of each county in this  
10 state shall prosecute all violations of this article in their respective  
11 counties in which the violations occur.

12 1964. In addition to the other proceedings provided for in this  
13 article, on application of the bureau, the superior court of any  
14 county shall issue an injunction to restrain an unlicensed person  
15 from conducting the practice of dental hygiene, as defined in this  
16 article.

17 1965. If a person has engaged in or is about to engage in an  
18 act that constitutes an offense against this chapter, the superior  
19 court of any county, on application of 10 or more persons holding  
20 licenses to practice dental hygiene issued under this article, may  
21 issue an injunction or other appropriate order restraining that  
22 conduct. Proceedings under this section shall be governed by  
23 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of  
24 the Code of Civil Procedure.

25 1966. (a) It is the intent of the Legislature that the bureau seek  
26 ways and means to identify and rehabilitate licensees whose  
27 competency may be impaired due to abuse of dangerous drugs or  
28 alcohol, so that licensees so afflicted may be treated and returned  
29 to the practice of dental hygiene in a manner that will not endanger  
30 the public health and safety. It is also the intent of the Legislature  
31 that the bureau establish a diversion program as a voluntary  
32 alternative approach to traditional disciplinary actions.

33 (b) One or more diversion evaluation committees shall be  
34 established by the bureau. The bureau shall establish criteria for  
35 the selection of each committee. Each member of a diversion  
36 evaluation committee shall receive per diem and expenses as  
37 provided in Section 103.

38 1966.1. (a) The bureau shall establish criteria for the  
39 acceptance, denial, or termination of licensees in a diversion  
40 program. Unless ordered by the bureau as a condition of a

1 licensee's disciplinary probation, only those licensees who have  
2 voluntarily requested diversion treatment and supervision by a  
3 diversion evaluation committee shall participate in a diversion  
4 program.

5 (b) A licensee who is not the subject of a current investigation  
6 may self-refer to the diversion program on a confidential basis,  
7 except as provided in subdivision (f).

8 (c) A licensee under current investigation by the bureau may  
9 also request entry into a diversion program by contacting the  
10 bureau. The bureau may refer the licensee requesting participation  
11 in the program to a diversion evaluation committee for evaluation  
12 of eligibility. Prior to authorizing a licensee to enter into the  
13 diversion program, the bureau may require the licensee, while  
14 under current investigation for any violations of this article or other  
15 violations, to execute a statement of understanding that states that  
16 the licensee understands that his or her violations of this article or  
17 other statutes, that would otherwise be the basis for discipline,  
18 may still be investigated and the subject of disciplinary action.

19 (d) If the reasons for a current investigation of a licensee are  
20 based primarily on the self-administration of any controlled  
21 substance or dangerous drugs or alcohol under Section 1681, or  
22 the illegal possession, prescription, or nonviolent procurement of  
23 any controlled substance or dangerous drugs for self-administration  
24 that does not involve actual, direct harm to the public, the bureau  
25 shall close the investigation without further action if the licensee  
26 is accepted into the bureau's diversion program and successfully  
27 completes the requirements of the program. If the licensee  
28 withdraws or is terminated from the program by a diversion  
29 evaluation committee, the investigation shall be reopened and  
30 disciplinary action imposed, if warranted, as determined by the  
31 bureau.

32 (e) Neither acceptance nor participation in the diversion program  
33 shall preclude the bureau from investigating or continuing to  
34 investigate, or taking disciplinary action or continuing to take  
35 disciplinary action against, any licensee for any unprofessional  
36 conduct committed before, during, or after participation in the  
37 diversion program.

38 (f) All licensees shall sign an agreement of understanding that  
39 the withdrawal or termination from the diversion program at a time  
40 when a diversion evaluation committee determines the licensee

1 presents a threat to the public's health and safety shall result in the  
2 utilization by the bureau of diversion treatment records in  
3 disciplinary or criminal proceedings.

4 (g) Any licensee terminated from the diversion program for  
5 failure to comply with program requirements is subject to  
6 disciplinary action by the bureau for acts committed before, during,  
7 and after participation in the diversion program. A licensee who  
8 has been under investigation by the bureau and has been terminated  
9 from the diversion program by a diversion evaluation committee  
10 shall be reported by the diversion evaluation committee to the  
11 bureau.

12 1966.2. Each diversion evaluation committee shall have the  
13 following duties and responsibilities:

14 (a) To evaluate those licensees who request to participate in the  
15 diversion program according to the guidelines prescribed by the  
16 bureau and to consider the recommendations of any licensees  
17 designated by the bureau to serve as consultants on the admission  
18 of the licensee to the diversion program.

19 (b) To review and designate those treatment facilities to which  
20 licensees in a diversion program may be referred.

21 (c) To receive and review information concerning a licensee  
22 participating in the program.

23 (d) To consider in the case of each licensee participating in a  
24 program whether he or she may safely continue or resume the  
25 practice of dental hygiene.

26 (e) To perform other related duties as the bureau may by  
27 regulation require.

28 1966.3. Notwithstanding the provisions of Article 9  
29 (commencing with Section 11120) of Chapter 1 of Part 1 of  
30 Division 3 of Title 2 of the Government Code, relating to public  
31 meetings, a diversion evaluation committee may convene in closed  
32 session to consider reports pertaining to any licensee requesting  
33 or participating in a diversion program. A committee shall only  
34 convene in closed session to the extent that it is necessary to protect  
35 the privacy of a licensee.

36 1966.4. Each licensee who requests participation in a diversion  
37 program shall agree to cooperate with the treatment program  
38 designed by a diversion evaluation committee and to bear all costs  
39 related to the program, unless the cost is waived by the bureau.  
40 Any failure to comply with the provisions of a treatment program

1 may result in termination of the licensee's participation in a  
2 program.

3 1966.5. (a) After a diversion evaluation committee, in its  
4 discretion, has determined that a licensee has been rehabilitated  
5 and the diversion program is completed, the diversion evaluation  
6 committee shall purge and destroy all records pertaining to the  
7 licensee's participation in the diversion program.

8 (b) Except as authorized by subdivision (f) of Section 1966.1,  
9 all bureau and diversion evaluation committee records and records  
10 of proceedings pertaining to the treatment of a licensee in a  
11 program shall be kept confidential and are not subject to discovery  
12 or subpoena.

13 1966.6. The bureau shall provide for the representation of any  
14 person making reports to a diversion evaluation committee or the  
15 bureau under this article in any action for defamation for reports  
16 or information given to the diversion evaluation committee or the  
17 bureau regarding a licensee's participation in the diversion  
18 program.

19 SEC. 32. Section 4999.2 of the Business and Professions Code  
20 is amended to read:

21 4999.2. (a) In order to obtain and maintain a registration,  
22 in-state or out-of-state telephone medical advice services shall  
23 comply with the requirements established by the department. Those  
24 requirements shall include, but shall not be limited to, all of the  
25 following:

26 (1) (A) Ensuring that all staff who provide medical advice  
27 services are appropriately licensed, certified, or registered as a  
28 physician and surgeon pursuant to Chapter 5 (commencing with  
29 Section 2000) or the Osteopathic Initiative Act, as a dentist *or*  
30 *dental hygienist* pursuant to Chapter 4 (commencing with Section  
31 1600), ~~as a dental hygienist pursuant to Sections 1760 to 1775,~~  
32 ~~inclusive,~~ as a psychologist pursuant to Chapter 6.6 (commencing  
33 with Section 2900), as a marriage and family therapist pursuant  
34 to Chapter 13 (commencing with Section 4980), as a licensed  
35 clinical social worker pursuant to Chapter 14 (commencing with  
36 Section 4990), as an optometrist pursuant to Chapter 7  
37 (commencing with Section 3000), or as a chiropractor pursuant to  
38 the Chiropractic Initiative Act, and operating consistent with the  
39 laws governing their respective scopes of practice in the state

1 within which they provide telephone medical advice services,  
2 except as provided in paragraph (2).

3 (B) Ensuring that all staff who provide telephone medical advice  
4 services from an out-of-state location are health care professionals,  
5 as identified in subparagraph (A), who are licensed, registered, or  
6 certified in the state within which they are providing the telephone  
7 medical advice services and are operating consistent with the laws  
8 governing their respective scopes of practice.

9 (2) Ensuring that all registered nurses providing telephone  
10 medical advice services to both in-state and out-of-state business  
11 entities registered pursuant to this chapter are licensed pursuant  
12 to Chapter 6 (commencing with Section 2700).

13 (3) Ensuring that the telephone medical advice provided is  
14 consistent with good professional practice.

15 (4) Maintaining records of telephone medical advice services,  
16 including records of complaints, provided to patients in California  
17 for a period of at least five years.

18 (5) Ensuring that no staff member uses a title or designation  
19 when speaking to an enrollee or subscriber that may cause a  
20 reasonable person to believe that the staff member is a licensed,  
21 certified, or registered professional described in subparagraph (A)  
22 of paragraph (1), unless the staff member is a licensed, certified,  
23 or registered professional.

24 (6) Complying with all directions and requests for information  
25 made by the department.

26 (b) To the extent permitted by Article VII of the California  
27 Constitution, the department may contract with a private nonprofit  
28 accrediting agency to evaluate the qualifications of applicants for  
29 registration pursuant to this chapter and to make recommendations  
30 to the department.

31 SEC. 33. Section 4999.7 of the Business and Professions Code  
32 is amended to read:

33 4999.7. (a) Nothing in this section shall limit, preclude, or  
34 otherwise interfere with the practices of other persons licensed or  
35 otherwise authorized to practice, under any other provision of this  
36 division, telephone medical advice services consistent with the  
37 laws governing their respective scopes of practice, or licensed  
38 under the Osteopathic Initiative Act or the Chiropractic Initiative  
39 Act and operating consistent with the laws governing their  
40 respective scopes of practice.

(b) For the purposes of this chapter, “telephone medical advice” means a telephonic communication between a patient and a health care professional in which the health care professional’s primary function is to provide to the patient a telephonic response to the patient’s questions regarding his or her or a family member’s medical care or treatment. “Telephone medical advice” includes assessment, evaluation, or advice provided to patients or their family members.

(c) For the purposes of this chapter, “health care professional” is a staff person described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist *or dental hygienist* pursuant to Chapter 4 (commencing with Section 1600), ~~as a dental hygienist pursuant to Sections 1760 to 1775, inclusive,~~ as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

SEC. 34. Section 44876 of the Education Code is amended to read:

44876. The qualifications for a dental hygienist shall be a valid ~~certificate~~ *license* issued by the ~~Board of California Dental Examiners~~ *Hygiene Bureau or by the Dental Board* of California and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

SEC. 35. Section 1348.8 of the Health and Safety Code is amended to read:

1348.8. (a) Every health care service plan that provides, operates, or contracts for, telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a dentist *or a dental hygienist* pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, ~~as a dental hygienist pursuant to Article 7 (commencing with Section 1740) of Chapter 4 of Division 2 of the Business and Professions Code~~, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as



1 identified in clause (i), who are licensed, registered, or certified  
2 in the state within which they are providing the telephone medical  
3 advice services and are operating in compliance with the laws  
4 governing their respective scopes of practice. All registered nurses  
5 providing telephone medical advice services to both in-state and  
6 out-of-state business entities registered pursuant to this chapter  
7 shall be licensed pursuant to Chapter 6 (commencing with Section  
8 2700) of Division 2 of the Business and Professions Code.

9 (3) Ensure that every full service health care service plan  
10 provides for a physician and surgeon who is available on an on-call  
11 basis at all times the service is advertised to be available to  
12 enrollees and subscribers.

13 (4) Ensure that staff members handling enrollee or subscriber  
14 calls, who are not licensed, certified, or registered as required by  
15 paragraph (2), do not provide telephone medical advice. Those  
16 staff members may ask questions on behalf of a staff member who  
17 is licensed, certified, or registered as required by paragraph (2),  
18 in order to help ascertain the condition of an enrollee or subscriber  
19 so that the enrollee or subscriber can be referred to licensed staff.  
20 However, under no circumstances shall those staff members use  
21 the answers to those questions in an attempt to assess, evaluate,  
22 advise, or make any decision regarding the condition of an enrollee  
23 or subscriber or determine when an enrollee or subscriber needs  
24 to be seen by a licensed medical professional.

25 (5) Ensure that no staff member uses a title or designation when  
26 speaking to an enrollee or subscriber that may cause a reasonable  
27 person to believe that the staff member is a licensed, certified, or  
28 registered professional described in Section 4999.2 unless the staff  
29 member is a licensed, certified, or registered professional.

30 (6) Ensure that the in-state or out-of-state telephone medical  
31 advice service designates an agent for service of process in  
32 California and files this designation with the director.

33 (7) Requires that the in-state or out-of-state telephone medical  
34 advice service makes and maintains records for a period of five  
35 years after the telephone medical advice services are provided,  
36 including, but not limited to, oral or written transcripts of all  
37 medical advice conversations with the health care service plan's  
38 enrollees or subscribers in California and copies of all complaints.  
39 If the records of telephone medical advice services are kept out of  
40 state, the health care service plan shall, upon the request of the

1 director, provide the records to the director within 10 days of the  
2 request.

3 (8) Ensure that the telephone medical advice services are  
4 provided consistent with good professional practice.

5 (b) The director shall forward to the Department of Consumer  
6 Affairs, within 30 days of the end of each calendar quarter, data  
7 regarding complaints filed with the department concerning  
8 telephone medical advice services.

9 (c) For the purposes of this section, “telephone medical advice”  
10 means a telephonic communication between a patient and a health  
11 care professional in which the health care professional’s primary  
12 function is to provide to the patient a telephonic response to the  
13 patient’s questions regarding his or her or a family member’s  
14 medical care or treatment. “Telephone medical advice” includes  
15 assessment, evaluation, or advice provided to patients or their  
16 family members.

17 SEC. 36. Section 128160 of the Health and Safety Code is  
18 amended to read:

19 128160. (a) Pilot projects may be approved in the following  
20 fields:

21 (1) Expanded role medical auxiliaries.

22 (2) Expanded role nursing.

23 (3) Expanded role dental auxiliaries, *dental hygienists, dental*  
24 *hygienists in alternative practice, or dental hygienists in extended*  
25 *functions.*

26 (4) Maternal child care personnel.

27 (5) Pharmacy personnel.

28 (6) Mental health personnel.

29 (7) Other health care personnel including, but not limited to,  
30 veterinary personnel, chiropractic personnel, podiatric personnel,  
31 geriatric care personnel, therapy personnel, and health care  
32 technicians.

33 (b) Projects that operate in rural and central city areas shall be  
34 given priority.

35 SEC. 37. No reimbursement is required by this act pursuant to  
36 Section 6 of Article XIII B of the California Constitution because  
37 the only costs that may be incurred by a local agency or school  
38 district will be incurred because this act creates a new crime or  
39 infraction, eliminates a crime or infraction, or changes the penalty  
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O